

U.S. Cir. Ct. 13th Cir.
Mass. p.

In Chancery.

To the Honorable the Justices of
of the Circuit Court of the United
States, for the First Circuit, sitting
within and for the District of Mas-
sachusetts.

Humbly complaining show unto your
Honors, Nathaniel J. Wyeth, of Cambridge
in said District, and Frederic Tudor, of
Boston, in said District, gentlemen;

That in or about the year eighteen hundred
and twenty nine, the said Wyeth, with
great care diligence and application bestowed
about the business of cutting ice in large
quantities for sale and exportation as an
article of merchandise, invented a certain
new and useful improvement in the
manner of cutting ice for such purpose,
and certain machinery and apparatus
adapted therefor, whereby ice could be cut
much more expeditiously, regularly and eco-
nomically than had been ever before known,
into equal blocks, suitable for storage, and
for the lading of ships, and the said Wyeth
reduced the said invention to practice, and
actually used the same in cutting large quan-

titles of ice, and having reason to expect
that said improvement and the right of
using the same, and the said machinery
and apparatus therefor, and the right of
making vending and using said machi-
nery and apparatus, would become a
saleable property of great value, and be
in great demand among all persons who
might engage in the business of collecting
and keeping ice for sale or exportation,
the said Weytt, with the view of securing to
himself the sole and exclusive right of using
and licensing the use of said improvement,
and of making vending using and licensing
the use of such machinery and apparatus
therefor, did, on or about the eighteenth day
of March, in the said year eighteen hundred
and twenty nine, apply for and obtain
Letters Patent, duly certified under the seal
of the United States and signature of the then
President of the United States, securing to him
the said Weytt, his heirs, executors, administrators
or assigns, for the term of fourteen years from
the said date, (which said term is yet unexpired)
the full and exclusive right and liberty of
making, constructing, using, and vending to
others to be used the said improvement,
whereof a description is annexed to the said

Letters Patent, conformably to the laws in that case made and provided, as in and by the said Letters Patent when produced, & whereof a copy, as well of the said Letters Patent, as of the Specification ~~there~~ of the said improvement accompanying the same, is annexed hereto, which your Orators pray may be taken as part of this Bill, reference thereto being had, will more at large appear.

That afterwards, on or about the ninth day of February, in the year eighteen hundred and thirty two, the said Wyeth, by his deed of assignment of that date (which has not been recorded) then being the sole owner and possessor of the said Patent Right, in consideration of a large sum of money to him paid by said Tudor, granted sold assigned and transferred to the said Tudor, all his the said Wyeth's right title interest and property derived to, or ⁱⁿ any wise belonging to him the said Wyeth, under the Patent or grant aforesaid, to have and to hold to the said Tudor, his executors, administrators and assigns, for and during the then unexpired period for which said Patent Right was granted, excepting that said Wyeth, in his said deed, reserved to himself, out of his said grant, and to those persons who might be in his employment,

the right to an said improvement machinery and apparatus, so far as he might have occasion, at any time, or in any place, during the unexpired period aforesaid, and that both the said Wyeth in his own right, as the original inventor and patentee aforesaid, and the said Tudor as assignee under and by force of the license & grant of the said Wyeth, have heretofore continually used ^{that process} the improvement aforesaid ^{which is called the buller} and the said machinery and apparatus therewith, and in and have annually cut therewith, and in that manner, large quantities of ice for storage, exportation and sale, and especially have so used all that part of the said improvement machinery and apparatus which the Defendants have infringed upon and pirated in the manner hereinbefore complained of; - and that neither the said Wyeth, nor the said Tudor, have ever transferred, assigned or disposed, to any other person or persons whatsoever, their respective rights and interests in the said improvement machinery & apparatus, or any part thereof, nor have ever consented that the same should be made, sold, or used, by or for any other person whatsoever, except by persons in their own employ, in the employ of one of them, and for their own respective benefit and advantage.

and account; — ^{B.} and your Orators had hoped that they might have continued to possess and enjoy the exclusive use of the said improvement machinery & apparatus, and the sole benefit profit and advantage arising therefrom, without any infringement, molestation, or hindrance therein, by any person whomsoever.

But now so it is, may it please your Honors, that Leonard Stone and Samuel Barnard, both of Watertown in the said District, yeomen, and George Stearns of West Cambridge in said District yeoman, associated together as partners in the business of cutting and selling ice, under the name of Leonard Stone & Co. combining and confederating together, and with divers persons to your complainants unknown, whose names when discovered they pray leave to insert herein with apt words to charge them, disregarding the vested rights of your Orators in this behalf, & contriving to injure them in the premises, have heretofore, at divers times, caused to be made, for themselves and at their expense, or the expense of some, or one of them, several machines & implements for the purpose of cutting ice, which correspond substantially & in all

in the said Patented Improvement machinery and apparatus.

But the Defendants, to give color to such unfair and unjust proceedings, sometimes pretend, that the Plaintiffs are not lawfully possessed of any Patent Right whatever in the premises, and that it is lawful for any person or persons to cut ice in any manner which to them may seem advantageous, and that the Plaintiffs have not & can not have any exclusive privilege therein; whereas the Plaintiffs charge, that, before the invention of the said Wyeth, there was no known method of procuring ice in large quantities, except by employing numbers of laborers, ~~to~~ with hatchets & saws, & other like implements, moved directly by the human hand, to cut out, saw, & break, irregular blocks & pieces of ice, with great labor & expense, and to gradually & after long time, to accumulate a large number of such blocks & pieces, which from the irregularity of their shape were difficult of stowage, & of large dimensions & of decay must occur; the ice to melt & decay much faster than if it were compactly & closely stored; but that by means of the invention of said Wyeth, the ice is cut by machinery

Monday
moved by horses, or other power, into regular
and equal strips & blocks with great certai-
ty and rapidity, and that large quantities
can thus be cut, collected and accumulated
in a very short time, and at very little
expense, ^{and can be stored up without waste for a long time,} whereby ice is made, & has become,
a cheap commodity in the domestic market,
at all seasons of the year, and an article
of extensive exportation to distant countries.

And sometimes the said Defendants
pretend, that said Weytt was not the
original inventor of the said improve-
ment, and of the machinery & apparatus
therefor, and that the same were well known
in use by other persons in other countries
before they were made used by the said
Weytt; whereas the Plaintiffs charge the
contrary thereof to be true, & that the cutting
of ice, otherwise than by hand, was never
known or practiced in ^{this or} any other country
until his said improvement was made
& introduced, and that his said machinery
& apparatus were the first application of
any other than hand power to the business
aforesaid, and that his said patented machi-
nery & apparatus therefore, in all its essential
parts qualities & characteristics, are the only
machinery & apparatus which has yet
been successfully applied to this end, and
that he was the sole inventor thereof.

And sometimes the Defendants pretend,
that the said machines & implements, so made, or
caused to be made, by them, and so used by them
in and about the said business, are not the
same machinery & apparatus as are des-
cribed in the said Letters Patent, nor are
used by them in the same manner, but that
they are other & different machines & implements,
used in another and different way, and
which they may lawfully use without any
infringement of the said Patent; - whereas
the Plaintiffs charge that the said machines
& implements of the Defendants, though dif-
fering in immaterial parts & forms from the
said patented machinery & apparatus, do
not differ therefrom in any material and
essential respect, & do not differ therefrom
in their manner of use, but that the said
machines & implements of the Defendants
are ^{constructed} & operated in the same way, upon the
same principle, and by the same means
produce the same effect, and are sub-
stantially & in principle the same ma-
chinery & apparatus as are described in
said Patent, and that the manner of
cutting is thereby corresponds identically
with that of the said Plaintiffs by their said
machinery & apparatus; & they particularly
charge, in this behalf, that the most important

of their said machinery & apparatus is that
for the cutting, as distinguished from the sawing
of ice, and that the most essential part of
this said patented ice-cutter is a certain iron
plate, or plates, as will more particularly
appear in and by the specification connected
to said letters patent, which said plate, or
plates, is, or are, cut in several places equi-
distant or nearly so, in such manner &
at such angle, as to present to the surface
of ice wherein the said ice-cutter is pla-
ced, a succession of chisels or cutting points,
whereof each (after the first) is continued so
as to cut into the ice a quarter of an inch,
or thereabouts, deeper than the next preceding
chisel or cutting point, in such manner that
when the said ice-cutter is drawn by hand,
or other power over a surface of ice, the
said chisels, or cutting points, enter into
the same, & while no one of the said chisels,
or cutting points, encounters greater resistance
from the ice than is caused by a cut of or
quarter of an inch, or thereabouts, in depth,
the whole plate or plates together & succession
of said chisels, or cutting points, as connected
in & by the same plate, or plates, cause a cut,
or groove, in the ice of one inch or thereabouts
in depth at each passage of the said ice-
cutter over & through the ice, which said
cut or groove may be deepened as far as

needful by the repeated passages of the
said ice-cutter over & through the same
groove; - and that this part of the said
patented machinery is ^{pirated} incorporated
by the said Defendants into their machines
& implements, without any material
change or variation of form, and that
is the only essential part of their ice-cutting
machine, and that their said ice-cutting
machine is drawn in the same manner,
& with the same effect, by means of such
plate so curved with the said successive
chisels or cutting points - so continued as
aforesaid; and the Plaintiff further
expressly charges that all the differences
of form between the said patented ice-cutter,
and the said ice cutter used by the said
Defendants, are mere colorable differences,
for the better evasion & more successful
concealment of the evasion of the Plain-
tiff's said Patent Right; - yet though fre-
quently requested & warned to abstain &
desist from the use of the said pirated
ice-cutter, the said Defendants wholly
neglect & refuse so to do.

All which acts, practices & refusals
of the Defendants are contrary to equity
& good conscience, & tend to the manifest
wrong & injury of your orator in the premises.

In consideration whereof, & forasmuch
as your Orators can only have adequate
relief in the premises in this Court as a
Court of Equity: where matters of this na-
ture are properly cognizable & relievable,
To the end therefore that the said Stone
Barnard & Stearns, & their confederates
when discovered, may, upon their several
& respective corporal oaths, & the best
information of their several & respective
knowledge & remembrance information
& belief, full true direct & perfect
answer make to all & singular the
matters aforesaid, & that as fully &
particularly, as if the same were here
repeated, under they & each of them distinctly
interrogated thereto in each & every clause
& particular thereof, and that the said Defen-
dants may be restrained & enjoined by
this Honorable Court from further use of
the improvement aforesaid, & from ma-
king, or causing, or procuring to be
made, using, or causing, or procuring to be
used, any of their said ice-cutting machines
& implements in manner aforesaid, or other-
wise, to the detriment of the Plaintiffs, or any
machines or implements similar thereto,
or any other machine, or machines, imple-
ments, or apparatus for the cutting of ice

resembling the machinery & apparatus
of one of the Plaintiffs than any other
than 2 except by purchase from the Plaintiffs
of their said machinery & apparatus or
by license from them, if the same shall
be obtained, for their use & benefit, & that
the Plaintiffs may have an account if
needed of the profits made by the said defen-
dants in the sale or use of the said patented
machinery & apparatus, & that the Plaintiffs
may have their costs in this suit, & may have
such further & other relief in the premises
as to your Honors may seem meet, & the
nature & circumstances of the case may
require; -

May it please your Honors to grant
to the Plaintiffs not only a writ of in-
junction, issuing out of & under
the seal of this Court, directed unto the
said John Burnard & others, to restrain
them, their agents & servants, from using the
said invention, & from making, or
causing to be made, or using, or causing
to be used, without license from the Plain-
tiffs, any, or any part, of the said machi-
nery or apparatus secured to the said Plaintiffs
by the said Letters Patent, or any machi-
nery or apparatus resembling the same,
until a final hearing, or further order of the
Court, but also a writ of subpoena directed

to the same defendants commencing
them, by a certain day and under a
certain penalty therein to be inserted, to
be and appear before this Court then &
there to abide the premises & stand to and
abide such order & decree of perpetual
injunction, or otherwise, as to this Court,
upon full consideration thereof, shall
seem agreeable to equity & good conscience.

Gardiner & English, Solicitors.



The United States of America

To All to whom these Letters Patent shall come

Whereas, Nathaniel J. Wyeth, a citizen of the United States hath alleged that he has invented a new and useful improvement in the manner of cutting ice, together with the machinery or apparatus therefor which improvement he states has not been known or used before his application: hath made oath that he does verily believe that he is the true inventor or discoverer of the said improvement hath paid into the treasury of the United States the sum of thirty Dollars, delivered a receipt for the same and presented a petition to the Secretary of State signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose: These are therefore to grant, according to law to the said Nathaniel J. Wyeth his heirs administrators or assigns for the term of fourteen years from the eighteenth day of March one thousand eight hundred and twenty nine, the full and exclusive right and liberty of making constructing using and vending to others to be used the said improvement a description whereof is given in the words of the said Nathaniel J. Wyeth ^{himself} in the Schedule hereto annexed and is made a part of these presents

In Testimony whereof, I have caused these letters to be made Patent and the Seal of the United States to be hereunto affixed
Given under my hand at the City of Washington this eighteenth day

of March in the year of our Lord one
thousand eight hundred
and twenty nine, and
of the Independence of the
United States of America
the fifty third.

Andrew Jackson

By the President

James A. Hamilton

Acting Secretary of State

City of Washington, to wit

I do hereby certify That the foregoing
Letters Patent were delivered to me on the
eighteenth day of March in the year of our
Lord one thousand eight hundred
and twenty nine, to be examined;
that I have examined the same
and find them conformable to law,
and I do hereby return the same to
the Secretary of State, within fifteen
days from the date aforesaid, to wit
on this eighteenth day of March in the
year aforesaid

Wm. Macpherson Berrien

Attorney General of the United States

The Schedule referred to in these Letters Patent and making part of the same, containing a description in the words of the said Nathaniel J Wyeth himself, of his improvement in the manner of cutting ice together with the machinery or apparatus therefor.

1st Two bars of iron or other material, secured to each other by cross bars: the two first mentioned to be of such distance apart as the dimension of the ice is required to be 2^d. On each outside bar is bolted a plate of iron as long as the bar, and at right angles with the cross bars - these plates to be so bolted to the bars as to project three inches each on one side of the bars to which they are bolted and one of them is project on the other side of the bar two inches; - the other, one inch. These projections may be varied according to the desired depth of the cut.

3^d These plates, both on the upper side, and on the under side of the bars, are to be cut at four equi distant points each, at an angle of forty-five degrees, or thereabouts, to the bar; thereby forming a cutting point of forty five degrees or thereabouts; - to this point is wedged a piece of steel, to form the chisel. The rear end of the plate to be of the before specified width from the bar, but to diminish toward the point end one fourth of an inch at each point; thereby giving each succeeding point a clear cut of one fourth of an inch deeper than its precursor.

4th The mouths, by which the chips cut from the ice by the chisels are discharged, are

made similar to that of a carpenter's plough.

5th To the middle of the front cross-bar is fixed a ring for the purpose of attaching a draught chain, to which the horse that draws the cutter is to be harnessed.

6th This first part of the apparatus for cutting ice is called the Cutter, and is used as follows. — The Cutter is layed on the ice with the three inch side of the plates down ward and drawn forward in a straight line as far as is required, thus making two grooves of an inch deep. The horse is then turned about, and the cutter turned over, so that the two inch side of the plate shall be in one of the first grooves cut, and the one inch side on the ice; and as the cutter is drawn forward, the two inch side makes one of the first grooves an inch deeper and the one inch side forms a new groove of an inch deep.

Proceed in this manner until as many grooves are cut as are wanted; then turn the Cutter over upon the three inch side, go over the whole again with this side, and they are finished. Repeat the same process at right angles with the first grooves, and the operation with this part of the apparatus is finished.

Part second of Apparatus for cutting ice.

1st Two spur wheels, about three feet six inches, more or less, in diameter, connected together by an axle-tree of iron, or other material, from the centre of each to the other, fixed immovable in each.

2^d A pair of Fills proceeding from the Axle tree, and secured to it by a pair of Composition boxes, admitting the Axle tree to turn in them.

3^d A cog wheel, about three feet two inches in diameter, more or less, fixed to the centre of the Axle tree, so as to be incapable of turning, except with the axle tree.

4th A pair of Handles attached to the Axle tree, in the same manner as the felloes, so as to admit of the motion of the Axle tree in them; these handles to be placed one on each side of the cog wheel in the centre of the axle tree; and to be connected together by a permanent bar at a suitable distance from the Axle tree.

5th Two cog wheels, about four inches diameter, more or less, one of which to work on the large cog wheel, and the other to work on the one so working, and both to be secured by pintles passing through the handles: the small cog wheel not working on the large cog wheel to have secured beside it a circular saw about two & a half feet diameter, more or less.

6th The proportion between the large & small cog wheels is varied to obtain greater or less velocity for the saw as may be wanted. This part of the apparatus for cutting ice is called the Saw and is used as follows. Put the saw into one of the outside grooves made by the Cutter; drive the horse forward, following the groove made by the Cutter: at the same time a man who manages the handles presses them down as much as the strength of the horse will admit of. This operation is followed back & forth until,

the ice is cut through. The same is done with the outer parallel groove on the opposite side of the work, and also on one of the end grooves running at right angles with these. By this process the ice on the three sides of the plat or work marked by the Cutter is cut through. When this is done, take an iron bar (one end of which is wide & fitted to the groove, and the other end of which is sharpened as a chisel) and insert the end which is fitted to the groove into the groove next to and parallel with the end groove which is cut through; pry lightly in several places, then more strongly, until the ice is broken off; then strike lightly with the chisel end of the bar, into the cross grooves of the ice split off, and it easily separates into square pieces. Thus proceed with the whole plat marked out by the Cutter.

It is claimed as new, to cut ice of a uniform size by means of an apparatus, worked by any other power than human. The invention of this art, as well as of the particular method of the application of the principle are claimed by the subscriber

Nathaniel J. Wyeth

Witnesses

William J. Whipple

Wm E Foster

Wright et al in Ex. 44 Stone
et al

Jan. 1. 1840. Filed in
the Clerk's Office and
Remains to show cause
against Let. Jan. 8th -
of Subpoena Ret at the
February Rules -

M. L. Circuit Ch. 1st Circuit.
In Chancery.
N. J. Wyeth & Co. v. Stone & Co.

The Replication of Nathaniel J. Wyeth, and Fredric
Tudor, Complainants, to the Answer of Stone &
their Defendants.

The Replicants saving all exception to the in-
sufficiency of said Answer, for replication
thereunto say, that they will aver & prove that
said bill to be true certain & sufficient in
the law to be answered unto, & that the said Ans-
wer is uncertain & insufficient to
be replied unto by this replicant; Without
this, that any other matter or thing whatsoever
in the said Answer contained material or
effectual in the law to be replied unto - confessed
& avowed, traversed or denied is true; All
which matters & things the Replicants are &
will be ready to aver & prove as this Hon-
orable Court shall direct, & humbly pray
as in & by their said Bill they have already
prayed.

Gardiner & Engle
Solicitors.

Agostoni
Bologna

Cir. Court. October T. 1840-

Wright et al in Eq. vs Stone et al
Exps. Costs

Affidavits on hearing to show cause —	1.50
Witnesses fee —	3.50
Copy of Bill — — — —	7.50
Travel of Attorneys before Cir. Court —	.99
Counsel fee do —	20.00
Attendance May T. 15 Days —	4.95
Travel — — — —	.66
Cost — — — —	.50
October T. 26 Days — — — —	11.50
Travel — — — —	.66
Attendance at Rules 12 Days —	3.96
Continuance at Rules — —	3.60
Filing answer — — — —	.40
3 bills before Court — — —	1.50
Court to take evidence — —	9.50
Counsel fee on same — — —	20.00
Witnesses do — — — —	3.75
Court to take evidence — —	6.00
Counsel fee on same — — —	20.00
Witnesses do — — — —	10.00
Court to take evidence — —	4.50
Counsel fee on same — — —	7.00
Witnesses do — — — —	3.75
Opening of testimony 12 Depositions —	2.40
Counsel fee on Final hearing —	20.00
Recd. Trial of self — — — —	10.00

\$175.20

Tested by Geo. Taylor District Counsel for Dfd
and Francis Bennett Clerk

Costa

Magt Dist^y. Special District Court
Jan. 15. 1840
Nathl Wyeth & Frederick Fisher
vs. Leonard Stone & Co.

On the application for an injunction
in the case aforesaid is after hearing
of the parties. on their affidavits
presented, is over ruled, but ~~that~~
^{it is} ordered. ~~that~~ that the said
Leonard Stone & Co. defendants.
shall be required to take and
keep an true and exact
account of the whole quantity
of Ice. ~~enter~~ which may be
cut by the Machine now
claimed of ~~pending~~ while
the ~~Bill~~ Bill is Equity filed
by the Pltfs shall be pending,
~~and shall~~ commencing with
the ~~date~~ time of their notice
received of the filing of ~~the~~ Bill

J Davis
Dist^y Judge
Magt. Dist



Wm. H. Hall of Stone

Order of the Order
dissolving referring
or suspension -

Jan. 15. 1840 -

And now after the hearing of the evidence
in said cause, and of the arguments of coun-
sel, it is ^{ordered} adjudged ~~advised~~ decreed, that the
said Bill do stand dismissed, with costs for
the Defendants; and it is further ordered &
decreed that the proceedings and decree in
this ~~said~~ ^{cause} shall not be used as evidence
against said Wgeth, or the said Traylor,
nor otherwise to their prejudice, in any
other suit at law or in equity which shall
be brought ~~by them~~ or may be now pending,
by them or either of them, against these De-
fendants, or others, for the purpose of esta-
blishing a title to the Patent right, or any
part thereof, described in said Bill, or for
the purpose of recovering damages for
any infringement, or of preventing any
infringement of the same, or otherwise enfor-
cing any right or remedy relative thereto.

By the Court.

Decree

To the Honorable John Davis, Judge
of the United States Court ^{District} within and
for the District of Massachusetts.

The Petition of Nathaniel J. Wyeth of
Cambridge in said District, and of Freder-
ic Tudor, of Boston in said District, gen-
tlemen, respectfully sheweth:—

That said petitioners have filed in
the Clerk's Office of the Circuit Court
of the United States for the First Circuit
and District aforesaid their Bill of Com-
plaint ^{addressed to the said Goods} against Leonard Stone and Samuel
Barraud, both of Watertown in said District,
and George Stearns of West Cambridge in
said District, all yeomen, but associated
together as partners in the business of cutting
and selling ice under the firm of Leonard
Stone and Company, complaining that
they ^{the said defendants} have infringed upon a certain Patent
Right described in said Bill for a certain
improvement in the manner of cutting ice,
whereof said Wyeth is the original patentee
and said Tudor an assignee under said

Wyeth, and that said Defendants
are proceeding and threaten to proceed
immediately in the further infringement
thereof in the manner set forth in said
Bill, which prays for an immediate
injunction, as well as for a writ of
subpoena to be directed to the said Defen-
dants commanding them by a certain
day to be and appear before the
said Circuit Court to show cause
abide the premises, and stand to and
abide such order & decree of perpetual
injunction or otherwise as the said Court
upon full consideration shall seem agree-
ble to equity & good conscience; and that
a writ of subpoena has been issued ~~and~~
conformably to the prayer of said bill, return-
ed on the first Monday of February
next.

That since the filing of the said Bill there
has been no opportunity to apply to the said
Circuit Court for ~~a~~ writ of injunction in-
asmuch as the said Court is not now and
has not been in session, and that the said
Court will not be again holden in this
District until the fifteenth day of May

next, so that there will not be any opportunity of obtaining such writ from said Court prior to the said fifteenth day of May; that the infringement of the Patent Right complained of relates wholly to the business of cutting ice into blocks to be stored and kept for sale in warm weather, or to be stowed in ships for exportation, and that all the business aforesaid for the year, as to the cutting & collecting of ice, must necessarily be done before the said fifteenth day of May next, and will chiefly be done within a few weeks from the present time, & is now immediately about to be commenced, or actually commenced.

Wherefore your Petitioner leaving no other remedy in the premises, or means to restrain the Defendants from further violation of the said Patent Right before the said fifteenth day of May, humbly prays that your Honor would be pleased agreeably to the Statute in that case made & provided to issue a writ of immediate injunction against the said Defendants conformably to the prayer of said Bill.

Nathaniel Wyeth
J. F. Hudson

By
Gendron & English
their Solicitors.

Wright et al vs Stone et al

Petition for an
Injunction -

Jan'y 1. 1840. Filed
in the Ct's Office -

U. S. Circuit Court. First Circuit

Massachusetts: Ss.

In Chancery

Nathl. S. Wyeth et al
vs. Leonard Stone et al

The answer of Leonard Stone, Samuel Barnard, and George Stearns, the Defendants, to a bill of Complaint of Nathaniel S. Wyeth et al. Complainants.

These Defendants now and at all times, hereafter, saving and reserving to themselves all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, imperfections, and insufficiencies in the said bill of Complaint contained, for answer therunto, or unto so much, and such parts thereof, as they, these Defendants, are advised is material for them to make answer, they, these Defendants, answering, say:

That they are informed, and believe that the said Nathaniel Wyeth did, on or about the time in said Complainants bill, mentioned, apply for and obtain Letters Patent, duly authenticated by the proper Officers, from the Patent Office of the United States of America, purporting to secure to said Wyeth and his assigns, as the supposed original Inventor thereof, the full and exclusive right of making, using, vending, and selling to others to be used, a supposed new improvement in the method of cutting ice, as is in said bill of Complaint, fully set forth, and that subsequently, on or about the time mentioned in said bill of Complaint, said Wyeth sold and assigned to said Frederick Tudor one of said Complainants, the right of making, using, and vending said supposed new improvement, as is fully set forth in said bill of

Complaint, but for certainty thereof they pray that said Plaintiff may be required to produce said Letters Patent, and the Specification therein referred to.

But these Defendants deny, that the said Nathaniel S. Hyatt, one of said Complainants, is the original and sole Inventor of said supposed new Invention; or that he, or his assigns, have any right to the sole and exclusive use thereof.

And these Defendants, further answering, say that that portion of their said Patented Improvement in the method of cutting ice, which said Complainants charge in their said bill as being the most important part of their patented machinery and apparatus and which said Complainants allege is the part which these Defendants have infringed upon and pirated; being that portion of said machinery and apparatus for the cutting as distinguished from the sawing of ice, is not a new and original Invention and Improvement, but that the same, has been long known and in use: that the iron plates described in the said Letters Patent of said Hyatt, and by which the ice is cut into grooves as set forth in the Specification of said Hyatt annexed to said Letters Patent are made and constructed on the same principle and by the same means effect the same ends as the tool or instrument long known and in use commonly called a Carpenters Plough or Match Plane, which has long been used for the purpose of cutting grooves in wood by moving it horizontally over the surface of timber or plank; that said Ice Cutter, constructed as is set forth in said Letters Patent is but a succession of chisels or cutting points placed in the same manner as in a Carpenters Plough or Match Plane, one before another, and producing the same effects in the same way; and that all that part of said machinery and apparatus, which is by said Complainants alleged to be infringed upon by said Defendants is but the use and application of an old and well known principle

and does not include any machinery or combination not already known or requiring any invention.

And these Defendants further answering say, that the machine or implement by them these Defendants used for cutting ice, and which said Complainants charge to be an infringement and piracy of their said Patent Right is made of a single plate of iron, placed edgewise and so cut and wrought as to present to the surface of the ice successive sharp cutting points, resembling the points of a chisel with mouths or openings, so made as to discharge and throw off the chips, a shaving caused by the cutting of the ice; each cutting point being made to project a quarter of an inch beyond the one which precedes it: that this machine so made is operated and drawn over the surface of the ice by means of a horse, attached to the front part of the said plate of iron in the same manner as a horse is attached to the common farmer's plough, and that it is guided by means of arms or handles made in the same form, and attached to the rear or hind part of said plate, similar to the arms or handles of the common tillage plough.

And these Defendants further answering say, that they have never used any other machine or implement for cutting ice, other than the one last mentioned, and described, and constructed in the same manner above set forth of a single iron plate with handles and without any of the apparatus which the Complainants set forth in the Schedule annexed to the said Letters Patent as connected with and belonging to their said supposed new improvement: and that the implement or machine by these Defendants used for cutting ice, is made and used on the same principle and by the same means effects the same ends as the common Carpenter's Plough or Match Plane above mentioned: and that they verily believe that their said Ice-Cutter by them used, is not an Infringement of any Patent Right whatsoever.

but is the application and use of a well known instrument or tool to the purpose of cutting ice to which instrument, or tool, or the use thereof, no one can have the sole or exclusive possession or enjoyment.

And these Defendants protesting that the said Nathaniel S. Hyeth was not the true, sole and original Inventor of said supposed new Improvement in the mode of cutting ice, further answering say, that the said Nathaniel S. Hyeth, for a long time previous to the date of said Letters Patent, and previous to his application thereof, to wit, for the space of several years, used publicly and openly a machine or apparatus precisely similar to the one set forth and described in said Letters Patent, and in a public and open manner cut large quantities of ice therewith; and that many others besides, and among them George Stearns, one of these Defendants, for several years previous to the date of said Letters Patent, with the full knowledge and assent of said Hyeth, and on the same pond or lake in company with said Hyeth, made public and open use of said machine or apparatus, and cut large quantities of ice therewith.

And these Defendants are informed and verily believe, and they therefore allege by way of defence to said bill, that said Hyeth, previous to the date of said Letters Patent, and previous to his application thereof, suffered said machine and apparatus by him described in said Letters Patent to be used freely, and fully by the public for several years for the purpose of cutting ice, and thereby assented to the use of the same and dedicated it to public use.

And these Defendants protesting that said Nathaniel S. Hyeth was not the true, sole, and original Inventor of said supposed new improvement in the method of cutting ice, further answering say, that the specification signed by said Hyeth and annexed to said Letters Patent is informal, insufficient and void, and does not and cannot entitle said Hyeth

or his assigns, to the exclusive use, possession or enjoyment of said machinery and apparatus. And the said Wyeth or his assigns cannot, hold or enjoy any exclusive right or title to the same by virtue of said Letters Patent.

And these Defendants deny all and all manner of unlawful combination and confederacy where-with they are charged, by said Bill, without this that any other matter, cause or thing in the Complaints. Said Bill of Complaint contained, material or necessary for these Defendants to make answers unto, and not herein or hereby well and sufficiently answered, avoided, traversed, or denied, is true to the knowledge, or belief of these Defendants, all which matters and things these Defendants are ready and willing to aver, maintain, and prove, as your Honors shall direct. and hereby pray to be hence dismissed, with their reasonable costs and charges in this behalf most wrongfully sustained.

Samuel Barnard
George Stearns
Leonard Stone

United States of America

District of Massachusetts, Boston May 4th A.D. 1840

Then personally appeared the above named Samuel Barnard and George Stearns and made oath that the matters contained in the above answer by them subscribed are true to the best of their knowledge, recollection and belief

Before me George S. Hillard
Commissioner &c &c &c

United States of America. District of Mass. Boston June 3 A.D. 1840

Then personally appeared the abovesaid Leonard Stone and made oath that the matters contained in the above answer by him subscribed are true to the best of his knowledge, recollection and belief

Before me George S. Hillard
Commissioner &c &c &c

(4)
Pyrite chlorite and

Answer

May 4. 1840 - Filed
at the May Rules -

UNITED STATES OF AMERICA.

Massachusetts District, ss.

To Leonard Stone and Samuel Barnard
both of Watertown in the said District of
Massachusetts, Yeomen, and George Stearns
of West Cambridge in said District, Yeomen

GREETING.

FOR CERTAIN CAUSES offered before the Circuit Court of the United States of America, for the first Circuit, within and for the Massachusetts District, as a Court of Chancery, WE COMMAND AND STRICTLY ENJOIN YOU, laying all other matters aside, and notwithstanding any excuse, that you personally be and appear before our said Circuit Court, at the Rules, to be holden at the Office of the Clerk of our said Court, in Boston in said District, on the first Monday, being the *Third* day of *February* next, to answer concerning those things, which shall then and there be objected against you by

*Nathaniel J. Wyeth of Cambridge in said
District of Frederic Tudor of Boston in said
District, Gentlemen, in their Bill of Complaint.*

and to do further and receive that which our said Circuit Court shall consider in this behalf. And this you are in no wise to omit, under the penalty of *Five hundred* dollars

And have you there this writ.

Witness the Honorable *Roger B. Taney* at Boston,
this *First* day of *January* A. D. 1840, in
the *Sixty fourth* year of the Independence of the United States of America.

Francis Bassett Clerk

United States of America
Massachusetts, District of Boston Jan^y 2 1840

Pursuant herunto, I have ~~noted~~ -
subpoenaed the within named Stone Barnard Stearns
by leaving at their last & usual places of abode a true
& attested copy of this subpoena, to appear as herein
directed -

2 ser. of B. 00

3 fch. - 3. -

Trav: .55

Exp: 1.25

\$70.80

Henry Harris

U. S. Deputy Marshal

C. " " "

Subpoena

121.
Wgeth et al vs Stone et al

English, French,
for Bill Hancock.

Proctor Dec. 18th 1840 -

Recd from the Clerk the bill answer
replication in Wright et al v Stone et al
for the hearing - J. L. English -

United States of America.

MASSACHUSETTS }
DISTRICT, } *ss.*

The President of the United States of America,

To the Marshal of our District of Massachusetts,

or to either of his Deputies,

GREETING:

WE COMMAND YOU, that you summon *Lemard Stone and Samuel Barnard both of Watertown in the said District, Yeomen, and George Stearns of West Cambridge in the said District, Yeomen*

(if they may be found in your precinct) to appear before the District Court of the United States, to be holden at Boston, within and for the Massachusetts District, on

The Third day of *January* current at *11* o'clock, *A. M.* then and there to ~~answer to a~~ *filed in* ~~said Court against them, by~~ *I deem cause, if any they have,* why an Injunction should not be granted against them as prayed for by *North and J. Wyeth of Cambridge in the said District of* Frederick Tuder of Boston in said District, Gentlemen, in their Bill of Complaint against them

Hereof fail not, and make due return of this Writ, with your doings thereon into our said Court.

Witness the Honorable

John Davis
Judge of our said Court, and the Seal thereof, at Boston aforesaid, the

First day of *January* — in the year of our Lord one thousand eight hundred and ~~thirty~~ *Forty*

Francis Bassett *Clerk.*

United States of America
Massachusetts Dist.

Boston Jan 2 1840

Pursuant herunto I have
summoned the within named Stone, Barnard & Stearns
by leaving at their last & usual places of abode a true &
attested copy of this summons, to appear as herein
directed.

Henry Harris
U.S. Deputy Marshal.

3 serv	\$ 6.00
3 Cops	3.00
Fees	.55
Exp:	1.25
	<u>\$ 10.80</u>

720.
Wyeth vs. Stone et al
SUMMONS RETURN.
1840
Jan. 3

N. L. Circuit Court. Dec. 10. 1840.

Wynne v Stone et al

Read of the Clerk all the depositions
for bill in the above case.

Ordered that
for bill.

Englisches Recept
für Depositionen

Englisches

Wyeth & Co. v. Hunt & Co.

It is agreed that the affidavits used at the
hearing of the motion for an immediate in-
junction may be taken from the files for the
use of the counsel on each side in preparing
evidence for a hearing upon the merits.

Aug 11. 1840.

W. J. Sandrison for R. W. S.

See exhibit below in response to

Aug 21st - 1841

sent above & M. Davis's
Gardner, Esq. &
for others.

Rect
for Affidavit

Nos.	Description of Papers.	No. of sheets or papers.	
		Plaintiffs or li- bellants papers.	Defendants or respondents pa- pers.
1	<i>Bill</i>		
2	<i>Subpoena</i>		
3	<i>Summons to show cause</i>		
4	<i>Answer</i>		
5			
6			
7			
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BOSTON,

1832. Received of the Clerks of

Massachusetts District Court, by order of Court, the following Paper as described in the within List, viz.: No.

Hyatt vs. Faneuil

LIST OF PAPERS.

United States of America.

MASSACHUSETTS

NOT.....SS.

THE *Circuit* Court of the
United States, within and for the
Massachusetts District

TO *George S. Hillard, George T.
Curtis & Edward G. Loring* all of
Boston in said District, Esquires

KNOW YE, That, reposing confidence in your wisdom, prudence and
fidelity, we have appointed, and by these presents do authorize and empower you
to take the answers to the interrogatories hereunto annexed of *Benjamin Hedman,
Samuel Hedman, Nathan Nourse and
James Rand, Witnesses to be produced
and examined in behalf of the Defendants,*

to be used in a certain cause now pending in said Court, wherein

*Nathaniel S. Wyeth et al are Pls in Eq
&
Leonard Stone et al are Dfs -*

And to this end, at certain days to be by you appointed for that purpose, to
cause said witnesses, as aforesaid, to be brought before you, and each witness, while
present before you, to examine carefully on oath touching the premises. And when
you shall have taken the examination as aforesaid, to reduce or cause the same to be
reduced to writing, and to be subscribed by each of said witnesses in your presence.
And the same, so taken and subscribed, to return, together with this Commission and
your doings herein enclosed, sealed and directed to the *Circuit* Court aforesaid,
next to be holden at Boston, on the *fifteenth* day of *May*
next.

In testimony Whereof, we have caused the seal of the said *Circuit*
Court to be hereunto affixed.

Witness, the Honourable *Roger B. Taney* at Boston,
this *thirty first* day of *October* in the year of our Lord
one thousand eight hundred and *Forty*

Francis Barnett CLERK.

N. B. You shall not, except by the consent of the parties in writing, permit either party to attend at the taking of the deposition, either himself, or by any attorney or agent, nor to communicate by interrogatories or suggestions with the deponent whilst giving deposition in answer to the interrogatories annexed to this commission. And you shall take such deposition in a place separate and apart from all other persons, and permit no person to be present during such examination, except the deponent and yourself, and such disinterested person [if any] as you may think fit to appoint as a clerk, to assist you in reducing the deposition to writing. And you shall put the several interrogatories and cross-interrogatories to the deponent in their order, and take the answer of the deponent to each, fully and clearly.

United States Circuit Court
 (Happ's p.) First Circuit.

Nathaniel J. Wyeth et al. vs.
 Leonard Stone et al.

In Chancery.

Questions to be proposed to Ebenezer
 Steadman, Samuel Steadman, Nathan Nourse
 and James Rand. Witnesses to be produced
 and examined in behalf of the Defendants
 in the above entitled case.

1. — When do you reside and what is your occupation?
2. — Whether or not have you been engaged in the business of cutting ice; if yes, how long have you been so engaged? how much ^{ice} have you cut annually and when have you cut it?
3. — When did you first see an instrument or machine for cutting ice, and where did you see it? Describe minutely and exactly, how the first machine for this purpose you ever saw was made, in all its parts.
4. — If the first machine for cutting ice which you ever saw resembled any tool or implement, then & now in common use, state what it most resembled, & wherein? Describe its operation as compared with other

tools or implements which in your opinion it resembled? —

5. — Who made the first machine for cutting ice ^{with} which you are acquainted? and state when it was made and under whose directions?

6. — Have you ever made any machines for cutting ice, different from the one commonly used by Plaintiffs? if yea, describe them particularly, when and how they were made, and wherein they differed from Wyeth's Machine? And if the machines made by you resembled any tools or implements in common use, state particularly wherein they resembled.

7. — If you say you have made machines differing from the one used by Plaintiffs state wherein you derived the idea or principle upon which you constructed them.

8. — Are you familiar with the machines used for cutting ice by the Plaintiffs, Wyeth and Tudor? and with those used by Defendants, Stow, Barnard and Stearns? if yea — are they alike? if yea, — wherein? if not, how do they differ? state particularly —

9. — Have you ever made any ice cutters for the Plaintiffs or either of them? if yea, when did you make them and how are they made? State particularly the time when you made them —

10. How many Ice cutters have you made during the last ten or twelve years in all, and for whom have you made them give the names of the persons & state if you know where they were to be used and where they were used?
- 11 — — Were you ever forbidden to make ice cutters, or machines for cutting ice for the Plaintiffs or other persons? If yes, ~~by whom~~ & when?
12. Have you ever used machines for cutting ice? If yes, when have you used them, how long have you used them and when and where did you first, commence their use?
13. Describe the machines used by you — were they made like those of the Plaintiffs or like those used by the Defendants with handles &c?
14. Have you ever used machines for cutting ice like those used by the Defendants, Stone & others in the presence of, or in the sight of Nathl. J. Wyeth, Frederick Tudor, or persons in their employment?
- 15 — — Where do the Plaintiffs Tudor & Wyeth cut their ice, and how long have they cut ice on the same pond?
- 16 — — — When have you cut ice with ice cutters like those used by defendants and when did you first cut ice with them on that pond, and how long and

how often have you cut ice there, with said ice cutters? and what quantity of ice have you annually cut with them?

17. — Whether or not during all the time you have cut ice with said ice cutters on said pond, have you used them in the presence of and right to the Plaintiffs, Judson and Wyeth, or one of them? and of the persons in their employment?

18. — Have you ever been forbidden to use said ice cutters by the Plaintiffs or one of them, or by any person in their behalf?

19. Have you ever heard Wyeth or one of the Plaintiffs say anything about his invention or his patent or about its use by others? if yea, — state particularly what and all he said, and when he said it? —

20. — Whether or not have you heard said Wyeth say ~~that~~ persons might use ice cutters in welcome, and that he did not care for or value the Patent? or words to that effect?

21. Have you or not ever been applied to by the Plaintiffs or by one of them to loan for their use an ice cutter belonging to you, and similar to the one used by Howe and others, the defendants? if yea, when, by whom, and for what reason

did they wish to borrow your machine?

22. How many if any ice cutters similar to those used by said Stom and others are used on Fresh Pond every year?

Please enumeratt the names of those persons who use them on said Pond? and state if you know, how long they have there used them?

23. Whether or not do you know that any of said persons have ever been forbidden to use said ice cutters, by said Wyeth & Junior or either of them or by any person in their behalf?

24. — (Do you or not know that the Plaintiffs have never objected to their use by said persons on said Fresh Pond?

Plaintiffs object to this Interrogatory — W.H.G. and
25 Whether or not Nathaniel J. Wyeth ever told you whence he derived the idea or principle of making his ice cutters? if yea. Whence did he tell you he derived it? & what tool or implement, if any suggested it to his mind?

26 — (Did you, or not assist one Sexter Prall in making an ice cutter for the defendants if yea, when and why did said Prall ask you to assist him?

Plaintiffs object to anything said By Prall; W.H.G.

27. (Did you or not ever hear said Prall say that Samuel Barnard one of the

defendants would indemnify him for making an ice cutter against any claims by the Plaintiffs on account of the Patent therefor? at the time you assisted him in making one for the Defendants.

Did or did not Pratt at this time say anything to you about infringing Wyeth's Patent?

Dr. F. objected. As above W.H.G.

28. How long previous to the year 1829 and to the month of March in that year had persons engaged in the business of cutting ice ~~based~~ ice cutters publicly & openly? How long and where and how often previous to that time had said Wyeth used his said ice cutter?

29. Whether or not were ice cutters made similar to those used by the Plaintiffs in common and open public use by said Wyeth or by other persons previous to March 1829. If yes, how long previous?

30. If you know of any other matter or thing which may be favorable to the Defendants in the hearing of the above case, please state the same as fully & particularly as if thereto particularly interrogated.

GEO. TYLER BIGELOW
Solicitor to Defendants

Map. 3. — U. S. Circuit Court First Circuit
 Nathl. Wyeth et al. vs. Leonard Howe et al.

Cross Interrogatories to be proposed on
 behalf of the Plffs. to Ebenezer Steadman,
 Samuel Steadman, Nathan Bourse, &
 James Rand witnesses to be produced
 and examined by the Defs in above case.

1. Are you in any manner interested in
 the result of this case - Have you
 agreed or undertaken in any way to
 pay any part of the expense of the de-
 fence of this suit (or of any suit to
 try the validity of Plffs Patent) or the
 costs or damages that may be recovered
 against the Defs. in this suit, or in any
 suit for infringing Plffs patent or for
 the use of any Machine for cutting ice?
2. Are you or have you been or agreed
 to be directly or indirectly concerned or
 interested in Contesting the validity of the
 Plffs patent or claim to hold a patent
 for the Machine commonly called
 Wyeth's ice cutter, or for the machine
 used by the plaintiffs?
3. — Are you, or have you been engaged in

Cutting ice for others or on your own account
If the latter, for how long have you so
cut? If for others state in whose em-
ployment you have been in said business
& in whose employment you now are?

4. Where is now the first machine for
cutting ice which you ever saw? Is it
not now, or was it not recently at Lewis
Wharf in Charlestown, and is not this
the same machine of which Nathan
Kourse & Nathl^d Wipth built the wood
work, & Sexter Hall & James Rand made
the plates and chisels.

5. Who built the wood work and
who made the iron work of the first
machine for cutting ice which you
ever saw, & made or by whose direction
was it made?

6. If you shall say in answer to the
Depts 6th & 7th Interrogatories that you have
made machines for cutting ice. State
all and singular the said machines
which you have made & for whom & by
whose directions respectively

7. Did you ever employ any other person or
persons to make a machine or machines
for cutting ice for you? If yes, state when
& whom & how many machines, & what
directions did you give such person

--

or persons as to avoiding or infringing upon Wyeth's patent or as to making it like or unlike to the machine used by Plaintiffs, & in what particulars? especially will Mr Ebenezer Steadman state whether or not he employed John Barker to make a machine to avoid Wyeth's Patent? If you state when & what instructions he gave said Barker & whether the machine was made or not ^{and if not, why not?} if you, what became of said machine. What was it? and did he ever use it & where & when? If he did not use it, state why not?

8. If you shall answer Defts 18th interrogatory in the Negative, state whether the ~~Pltffs~~ knew that you were making an ice cutter while you were making it? & how you know they had such knowledge at the time.

9. If you shall answer the Defts 12th Interrogatory in the Affirmative, state whether said Wyeth was not absent from this vicinity, at the time you commenced using the said machines & did not continue absent for some and how long a time?

10. In what respects did the machines used by you, if any, differ from said Wyeth's machine? state particularly and minutely

11. Were you not notified by N. J. Wyeth

on some occasion not to use a machine for cutting ice, as he considered it, as an infringement, of a patent he had obtained or had applied for — if yea, state when and when and how often if more than one & state what & all said Wyeth said. also state whether James Brown & Josiah Coolidge, one or both of them were present at such notice?

12. When you ever notified in writing by said Tudor or said Wyeth or his counsel not to use an ice cutter? If yea produce the letter and annex it to your answers if you have it or can find it. If you have not got it, state what has become of it and what was the date of it as near as you can, & particularly in or about what year you received it. —

13. Will you swear that you ever used an ice cutter previously to ^{March} 1829. — If yea state how long previous & whether or not it was one built by James Rand for E. Stedman, and did not said Wyeth forbid said Stedman to use the same — was or not a "crop cutter" so called.

14. Was not said Rand a partner of Dexter Pratt at the time said Pratt made the iron work of the first cutter for N. J. Wyeth

was it not well known that Wyeth claimed or had applied for or was about taking out a patent, for that?—

15. — Was not a suit commenced or threatened to be commenced by or through Asahel Stearns Esq. on behalf of said Wyeth or Redor or both, against you for the use of an ice cutter. And did you not agree not to use said ice cutter further? And was not said suit ~~dropped~~ or foreborne upon said agreement? State particularly when the same took place & all the circumstances of the transaction.

16 — If you shall say that you ever heard said Wyeth say anything about his willingness that others should use ice cutters, State particularly when and where it was? Who were present & what led to the conversation & state all that he said if any thing.

17. — If you shall answer the Defts 21st Interrogatory in the affirmative, state particularly when it was & which of the ^{and what use he in fact made of said machine?} plaintiffs it was. Was said application made to you personally by one of the plaintiffs in his own person? Please be careful that you answer only as to any applications made to you personally by one of the plaintiffs in his own person & not as to any application made to you on behalf of the plaintiffs (if any were made) unless you

know of your own knowledge that such person was authorized by the Plaintiffs to make the application? and if you have stated that application was made by any ^{person} other than one of the Plaintiffs & that he had applied in behalf of the Plaintiffs or either of them, please state whether you were present when any authority was given him to make such application & if not, how you know that he was so authorized?

18. — If you shall answer Defts. 26th Interrogatory in the affirmative, state whether you were not a partner with said Pratt at the time? When was it? How do you know the reason why said Pratt asked you to assist him?

19. If in answer to Defts. 28th Interrogatory, you shall state that persons engaged in the business of ice cutting had used ice cutters publicly and openly previously to March 1827 — state who said persons were name all whom you saw use them, & state in whose employ they were used, & fix the date as nearly as you can & state how you enabled to fix it, Describe the cutters used by them respectively. Did you see them or any of them used? Can you swear to any one except Stedman? if you can, name the persons, and state where such persons

may now be found. Did not said Wyeth forbid Steadman to use it?

20. — If in answer to Defts 28th Interrogatory you shall state that said Wyeth had previously to March 1829 used his ice cutter - State when - where and for what purpose? Was it part for the purpose of experiment, or to see how the machine worked, & whether it could be improved?

21. — If in answer to Defendants 29th Interrogatory you shall state that Cutters similar to Plaintiffs were in open and public use previous to March 1829, State particularly when and how you fix the date, and also in what respects said Cutters resembled & in what respects they differed from the one now used by Defts? Who used the same? When & where & how often? State particularly every individual who so used an ice cutter previous to March 1829 and every time he used it, and the Place where he used it, each time.

State also whether you testify wholly from your own knowledge, or from what others have told you? Did you yourself see the ice cutters so used? If yea, who else can you name who saw them at the same time?

22. ^WWhat has been your Experience in,

& means of acquiring knowledge of machinery & the principles of constructing machines for any particular purpose or mode of operation — What is your occupation? are you a practical mechanic? Have you ever made a business of building machinery? If yes, what kind of machinery? Have you ever studied any books on subjects connected with the construction of machinery? If yes, name what books you have studied and whether with a view of putting it in practice?

23. — What do you conceive to be the mechanical principle upon which Wyeth's cutter is constructed? & what is in your judgment the most essential part of this machine? And why do you so consider it?

24. — What, was the mechanical principle upon which you constructed the machines differing from the stuffs which you made if you ever made any? What, is in your judgment the most essential part of the machine which you constructed & why do you so consider it?

25. — If you shall say that Wyeth's cutter resembles any tool or implement now and also on ^{18th March} 1827 in common use, state every particular wherein it so resembles & every particular in which it differs from said tool or implement.

15 ----- 16

26. — When did you first know or hear that said Wyeth had assigned his said Patent or any portion thereof to said Tudor? Was it, or not generally known at some & what time on the Pond, ~~between~~ among those engaged in the ice business, that Wyeth had sold to Tudor, his Patent or a portion of it)?

27. — If in answer either to the 19th or to the 20th Interrogatory you have said that you had heard Wyeth say that persons might use ice cutters in ~~well~~ welcome, & that he did not care for or value the Patent or words to that effect, or anything else said by Wyeth on the subject, please state particularly what the precise words were used by Wyeth, and what led to the conversation? & Who was present thereat, and all that was said on the subject by each person present, & when the said Conversation took place, & at or about what time? Fix the year and date as near as you can, and state whether it was not then well known to you that Wyeth had assigned his Patent to Tudor? And what reason Wyeth gave for saying he did not care for the Patent?

28. — If in Answer to the 14th & 17th Interrogatories, ^{or either of them} you state that you have used machines for cutting ice, like those used by Defendants in the presence or in sight

of Nathl. J. Wyeth, Frederick Tudor or persons in their employment, Specify particularly the person or persons in whose presence or sight you used said Machines & state when it was, and how near they were to you, and whether you mean to swear that either the said Wyeth or the said Tudor & which of them personally saw you and how you know it?

29. If in answer to the 15th Interrogatory you state that you have never been forbidden by the Plaintiffs or one of them or ^{by} any person in their behalf to use said Ice Cutter, do you mean to understand ^{as testifying} that no person ever told you that the Plaintiffs or either of them considered you as infringing their Patent.

30 If in answer to the 24th Interrogatory you state that you know that Plaintiffs have never objected to the use of the ice cutters used by persons on Fresh Pond, please to state how you know it?

31. If in answer to the twenty fifth Interrogatory you shall have stated anything said by Wyeth as to the source whence he derived the idea or principle of making ice cutters please state when & where the conversation was & who was present,

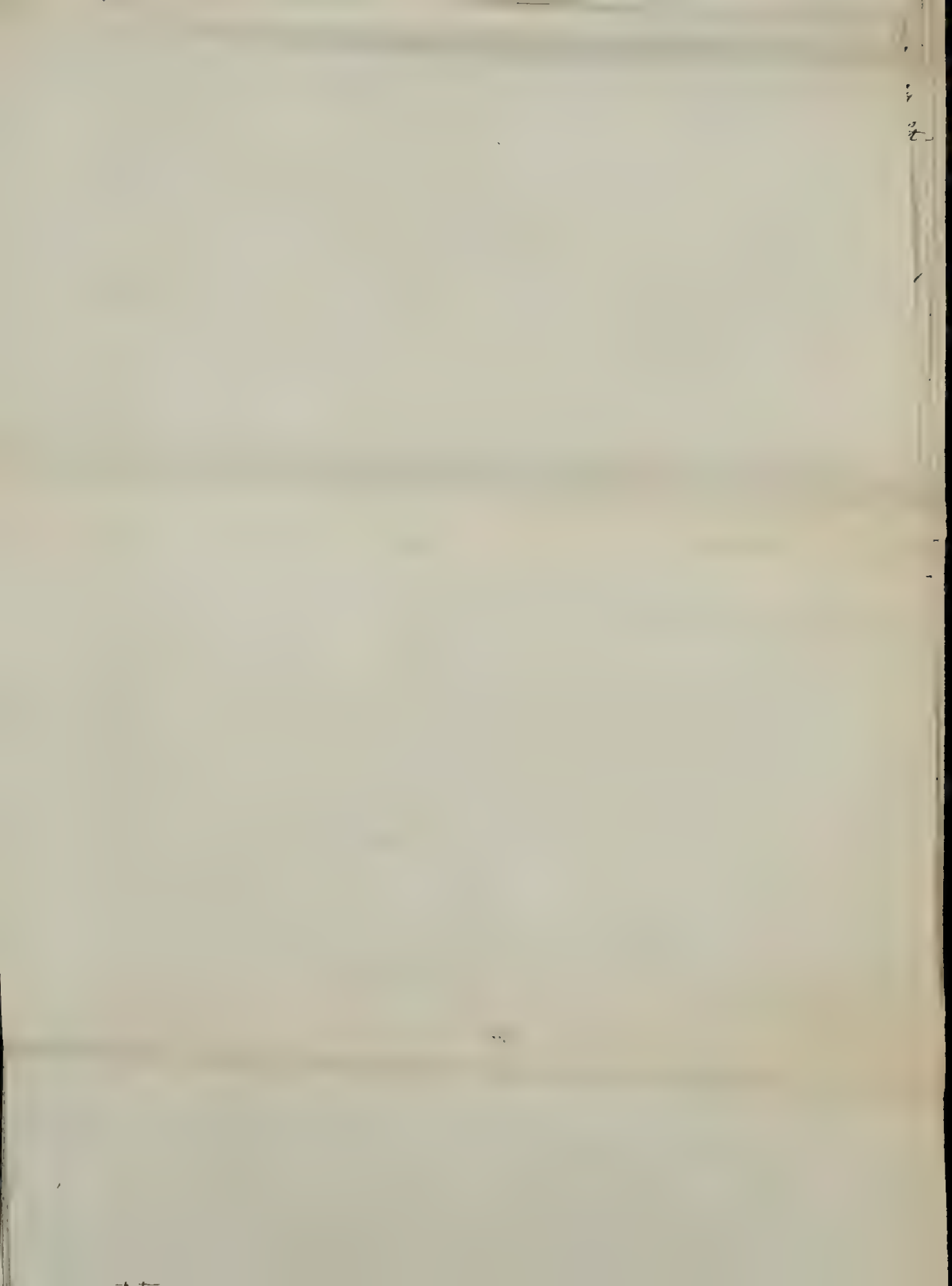
and what led to it, and state the whole conversation, and what was said by each person present relating to the subject.

32. Please examine the paper hereto annexed and state whether it is not a true copy of a letter from said Gedor, and by him sent and delivered to said C. S. Stearns or one and which of them. And if you shall say that you do not know whether it is a true copy or not, please to state whether or not it is of like purport, with the letter so sent & if not, wherein it differs, and whether the letter so sent was not of the same date, and if not about what time said letter was sent and how you are enabled to fix the time?

33. — If you know any other matter or thing than what you have already stated in answer to previous questions which may be of advantage to the Plaintiffs in this suit, please declare the same as fully and particularly as if thereto specially interrogated.

Gardiner & English,
Solicitors for Plffs.

Oct. 28th 1840,



Copy of a letter from Frederick Tudor to
 C. & S. Steadman, dated - Boston Jan 23, 1824

Messrs. C. & S. Steadman,

I have been informed that a carpenter has been examining a new Machine, contrived by myself & Mr. Myeth, for cutting ice, with the intention of imitating & building another on a similar plan. As this machine when brought to perfection is intended to be a subject of a Patent right, I wish you to understand that I object to your interfering and building a similar machine.

I have no doubt that this notification will be sufficient to deter you from proceeding any further in the construction of a like machine.

I am yr. Humbl. Serv^t
 (Signed) F. Tudor

A true Copy Attest

Francis Bassett Clerk

Answers of Nathan Nourse to interrogatories, on behalf of
the defendants.

N. Nourse

- 1 To the first interrogatory he says; I reside in Weston and I am at present an innkeeper.
- 2 To the second interrogatory he says; I cut ice for Mr. Edward Stedman, I think ^{three or} four years ago, on Uoburn pond and Fresh pond. I worked three or four weeks. That is the only time I ever cut ice of any consequence.
- 3 To the third interrogatory he says; The first machine I ever saw for cutting ice was in 1826 or 1827. I helped make this one in Watertown. It was made somewhat after the fashion of a carpenter's plough. The frame consisted of three string pieces of wood, joined by two crosspieces, upon which the others slid or were guided so that they might be moved according to the size of the cakes of ice desired. Two or three pieces of iron, like carpenter's plough irons, were attached to each of these runners or string pieces, passing through them and fastened by keys, so that they might be regulated according to whether it was desired to cut a greater or less depth. It was drawn by a horse. When in use, the irons were of different depths, each one cutting deeper than the one before it.
- 4 To the fourth interrogatory he says; It resembled a carpenter's plough, in the manner in which the irons were set, in the shape of the irons ^{and} ^{left} manner of their cutting.
- 5 To the fifth interrogatory he says; It was made by Nathaniel Wyech and myself under his directions, in 1826 or 1827.
- 6 To the sixth interrogatory he says; The machine above described is the only one I ever made.
- 7 To the seventh interrogatory he says; The above machine is the only one I have made.
- 8 To the eighth interrogatory he says; I am acquainted with the machines. Mr. Wyech's does not require a steersman, the other, does. One (Wyech's) cuts two tracks at a time, the other, one. I see no other difference.
- 9 To the ninth interrogatory he says; I have made one for Mr. Wyech, as above mentioned; no other.
- 10 To the tenth interrogatory he says; I made only one. It was used on Fresh pond, and was made to be used there.
- 11 To the eleventh interrogatory he says; I never was.
- 12 To the twelfth interrogatory he says; I used a machine about four winters ago, for a very short time only, on Fresh pond and Uoburn pond. I don't remember exactly the time.
- 13 To the thirteenth interrogatory he says; It was made like that of the defendants' ice handlers.
- 14 To the fourteenth interrogatory he says; I have used a similar machine in the presence of persons in the employment of Messrs. Wyech and Tudor.
- 15 To the fifteenth interrogatory he says; They cut ice on Fresh pond and have

N. Nourse

cut there for many years, I can't say how long.

- 16 To the sixteenth interrogatory he says; I never cut ice with ice-cutters like those of defendants on Fresh pond, but once, and that was about four winters ago. I cut a very short time and very little. I can't say how long time or how much.
- 17 To the seventeenth interrogatory he says; I used them ~~as~~ persons in their employment.
- 18 To the eighteenth interrogatory he says; No Sir; I never have.
- 19 To the nineteenth interrogatory he says; I never heard him say anything about
- 20 To the twentieth interrogatory he says; I never did.
- 21 To the twenty first interrogatory he says; I never was.
- 22 To the twenty second interrogatory he says; I do not know positively of any one who uses them except Ebeu. Steadman, and I don't know how long he has used them. There are many others on the pond but I don't know whose they are.
- 23 To the twenty third interrogatory he says; I know not.
- 24 To the twenty fourth interrogatory he says; I know not.
- 25 To the twenty fifth interrogatory he says; I don't recollect of his ever telling me.
- 26 To the twenty sixth interrogatory he says; I never assisted him.
- 27 To the twenty seventh interrogatory he says; I never did.
- 28 To the twenty eighth interrogatory he says; Mr. Wyeth had used his ice cutter publicly after 1826 or 1827; as to others I cannot say. I can't say how often he had used his.
- 29 To the twenty ninth interrogatory he says; I know not. Mr. Wyeth used his.
- 30 To the thirtieth interrogatory he says; I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says; I am not interested in the result of this case. I have not undertaken to pay any part of the expense of defending this or any other suit or any costs or damages.
- 2 To the second cross interrogatory he says; I am not and have not been so agreed.
- 3 To the third cross interrogatory he says; I have answered this interrogatory in my reply to the second direct. I am not in the business of cutting ice now.
- 4 To the fourth cross interrogatory he says; I cannot tell where it is. I have not seen it for many years.
- 5 To the fifth cross interrogatory he says; Mr. Wyeth and I built the wood work, under his direction. I don't remember who made the iron work.
- 6 To the sixth cross interrogatory he says; I never made but one.

- 7 To the seventh cross interrogatory he says; I never employed any one to make a machine.
- 8 To the eighth cross interrogatory he says; The one I made was under Mr. Wyck's directions.
- 9 To the ninth cross interrogatory he says; I could not tell.
- 10 To the tenth cross interrogatory he says; The one I used was like the defendant's. I have described the difference between that and Mr. Wyck's in my answer to the eighth direct Int.
- 11 To the eleventh cross interrogatory he says; I never was so notified.
- 12 To the twelfth cross interrogatory he says; I never received any such notice.
- 13 To the thirteenth cross interrogatory he says; I never used one before that time.
- 14 To the fourteenth cross interrogatory he says; I know not as to this interrogatory, except that Mr. Rand was a partner of Mr. Pratt's at the time the machine was made.
- 15 To the fifteenth cross interrogatory he says; I know not. No such suit was threatened or commenced against me.
- 16 To the sixteenth cross interrogatory he says; I know not.
- 17 To the seventeenth cross interrogatory he says; I know not.
- 18 To the eighteenth cross interrogatory he says; I know not.
- 19 To the nineteenth cross interrogatory he says; I saw Mr. Wyck's his ice cutter, hereinbefore described, on Fresh pond in 1827 or 1828. As to the rest of this interrogatory I know not.
- 20 To the twentieth cross interrogatory he says; He used it on Fresh pond in 1827 or 1828. He made common use of it. When I saw him use it, it was in the way of business and not to make trial of it.
- 21 To the twenty first cross interrogatory he says; I saw no other in use, previous to 1829, than Mr. Wyck's. I can't tell how often I saw it used nor the exact times. I should not think I saw it in use more than half a dozen times in all. I don't recollect who saw it with me.
- 22 To the twenty second cross interrogatory he says; I formerly worked at the wheelwright business. I was in that business about fifteen years. I am now an innkeeper. I have never been in the habit of building machinery nor have I studied any books on the subject, and the only mechanical business I am acquainted with is that of a wheelwright.
- 23 To the twenty third cross interrogatory he says; It is constructed on the principle of the carpenter's plough. I don't know that I could select any part as being more essential than another.
- 24 To the twenty fourth cross interrogatory he says; The principle of the machine - I helped build - was that - of the carpenter's plough. I cannot say what was the most essential part.
- 25 To the twenty fifth cross interrogatory he says. It resembled the

A. House

carpenter's plough in the irons and in the manner of keying them. It differed from them, in being drawn by a horse instead of being pushed by the hand.

26 To the twenty sixth cross interrogatory he says: I know not.

27 To the twenty seventh cross interrogatory he says: I know not.

28 To the twenty eighth cross interrogatory he says: I don't think I can mention the names of any persons. I never used such a machine in the presence of Mr. Tudor or Mr. Wyck, to my knowledge. I was within a few rods of some men who were filling their building. This was three or four winters ago.

29 To the twenty ninth cross interrogatory he says: No person ever told me
so

30 To the thirtieth cross interrogatory he says: I know not.

31 To the thirty first cross interrogatory he says: I know not.

32 To the thirty second cross interrogatory he says: I know not.

33 To the thirty third cross interrogatory he says: I know not.

Southall 11-14-72

E. Stedman Answers of Ebenezer Stedman to interrogatories, on behalf of the
defendants.

1 To the first interrogatory he says: I reside in Cambridge and am now
2 To the second interrogatory he says: I have been engaged in the business of cutting ice for twenty years and upwards. For the last ten years I have cut, on an average, one thousand tons a year, principally at Fresh pond.
3 To the third interrogatory he says: I first saw a machine for cutting ice about ten years ago, I cannot fix the exact time. It was on Fresh pond. It was a wooden frame about three feet long and twenty one inches wide. The after part of the frame was two inches deeper than the fore part, and there were four irons on a side, each one going half an inch deeper than the one before it. These irons were like plane irons and were fastened into grooves at the sides of the frames, by keys, so that they might be set higher or lower. It was drawn by a horse.

4 To the fourth interrogatory he says: It resembled a carpenter's plough plane. The irons were the same and set in the same way. Its operation was the same.

5 To the fifth interrogatory he says: Mr. A. J. Wyck told me that it was made under his directions, but by whom or when I know not.

6 To the sixth interrogatory he says: I have made machines differing from the plaintiff's. The first one I made was upwards of ten years ago. It was a strong iron frame, twenty one inches wide and three feet

and a half long. There were five iron plates on each side of the frame secured by bolts and nuts. The plates were like a carpenter's marking iron. It was drawn by a horse. The first iron dropped four inches from the frame, the one behind it four inches and a half, and so on, each one dropping half an inch lower than the one before it. The cutting edge inclined backward, instead of forward, as Mr. Wyeth's did. The next machine I made was made a year after the first one. This was almost exactly like that of the defendant's ~~defendant's~~ ~~the~~. It consisted of a plate of iron fastened to plough handles and the plate was cut in such a way as to have five cutting points, each lower than the one before it and with holes at the top of the cuttings to pass the chips through. It had a plate of iron for a guide and cut only one groove at a time. The cutting part resembled the carpenter's plough plane.

- 7 To the seventh interrogatory he says; The idea of the first was derived from a carpenter's marking iron; that of the second, from the carpenter's plough plane.
- 8 To the eighth interrogatory he says; I am acquainted with said machines. They are not alike. Mr. Wyeth's cuts two grooves at a time; Mr. Stone's, one. Mr. Wyeth's machine goes down a foot on one side and then is turned upside down and comes back up on the other side, cutting deeper. Mr. Stone's is held by the handles like a farmer's plough. Mr. Tudor's guides itself but a man rides on it to press it down. In Mr. Stone's, the cutting part takes more; in Mr. Wyeth's it is set more upright. The cutting points are very much alike, only Mr. Stone's cuts a wider groove.
- 9 To the ninth interrogatory he says; I never made any for the plaintiffs.
- 10 To the tenth interrogatory he says; I never made any, except the two above mentioned which were for myself. I used them on Fresh pond, and they were made to be used there and elsewhere.
- 11 To the eleventh interrogatory he says; I never was forbidden to make an ice cutter, by the plaintiffs. Mr. Wyeth forbade my using the first one I made.
- 12 To the twelfth interrogatory he says; I have used machines for cutting ice for eight or ten years. I began their use upon Fresh pond I can't say exactly when.
- 13 To the thirteenth interrogatory he says; I used the first machine I made, before described, part of one winter, ten years ago or upwards. For about eight years past, I have used one precisely like that of the defendant's.
- 14 To the fourteenth interrogatory he says; I have used machines like those of the defendant's, in the presence of Messrs. Tudor, Wyeth and persons in their employment.

- 15 To the fifteenth interrogatory he says: They cut ice principally on Fresh pond and have done so for twelve years.
- 16 To the sixteenth interrogatory he says; I have cut ice on Fresh pond with cutters like those of defendants, for the last eight years, every winter. I have cut a little over a thousand tons a winter, on an average.
- 17 To the seventeenth interrogatory he says; Yes Sir; always right in sight of them.
- 18 To the eighteenth interrogatory he says; I have not.
- 19 To the nineteenth interrogatory he says; I heard Mr. Wyeeh say, on Fresh pond, about seven years ago, that he did not care who used the cutters, for his patent was most run out. It was the year after his return from his second trip to the Oregon territory.
- 20 To the twentieth interrogatory he says; I have never heard him say anything upon the subject but once, and I have stated what he then said in my answer to the 19th Int.
- 21 To the twenty first interrogatory he says; Mr. John Barker, four or five years ago, borrowed of me my ice cutter, which is like the defendants' and said he wanted it to cut a deeper groove, as the ice came off hard. I saw Mr. Barker use it where Mr. ~~Barker's~~ Tudor's men were taking out ice.
- 22 To the twenty second interrogatory he says; Abiel Wyeeh used one on Fresh pond for two winters. Wm. Richardson has used one there about three winters. Josiah Coolidge has used one about three years.
- 23 To the twenty third interrogatory he says; I have never heard of their being so forbidden.
- 24 To the twenty fourth interrogatory he says; I know not.
- 25 To the twenty fifth interrogatory he says; He never did.
- 26 To the twenty sixth interrogatory he says; I never so assisted him.
- 27 To the twenty seventh interrogatory he says; I never heard him say anything about it.
- 28 To the twenty eighth interrogatory he says; I know not.
- 29 To the twenty ninth interrogatory he says; I know not.
- 30 To the thirtieth interrogatory he says; I know not.

Answers to Cross interrogatories

- 1 To the first cross interrogatory he says; I am not interested in the event of this suit. I have made no such agreement or undertaking.

- 2 To the second cross interrogatory he says; I have never made any such agreement.
- 3 To the third cross interrogatory he says; At first I cut on my own account. For about five winters, I cut for Col. Metcalf, for the last four winters, I have cut for Mr. J. B. Read and am in his employment now.
- 4 To the fourth cross interrogatory he says; I know not.
- 5 To the fifth cross interrogatory he says; I know not, except that it was made, as Mr. Wyeth told me, under his directions.
- 6 To the sixth cross interrogatory he says; I have made only two. They were made for myself and under my own directions.
- 7 To the seventh cross interrogatory he says; I think Mr. Pratt made the now work of my first machine and Mr. Rand - and Mr. Pierce, of the second. They were both made in Cambridge. I told them that I did not wish to have anything that would infringe upon Mr. Wyeth's patent. When I had my first machine made Mr. Jno. Barker was working for me. I talked with him about it and told him what I wanted to have done, but I did not employ him to make any machine. The machine we talked about was made and was used by me upwards of ten years ago, on Fresh pond, as I have before stated. I got off using it because I was forbidden by Mr. Wyeth.
- 8 To the eighth ^{cross} interrogatory he says; I know not.
- 9 To the ninth ^{cross} interrogatory he says; I cannot remember. Mr. Wyeth has been absent twice during the last ten years.
- 10 To the tenth cross interrogatory he says; I have already answered this in my reply to the eighth and other direct interrogatories. I have used a machine just like the defendants's.
- 11 To the eleventh cross interrogatory he says; I was notified by Mr. Wyeth, about ten years ago, on Fresh pond, not to use my first cutter. He said he had got a patent and should prosecute me if I used mine. Mr. Brown and Mr. Coolidge were not present at the time.
- 12 To the twelfth cross interrogatory he says; I never was so notified to my recollection.
- 13 To the thirteenth cross interrogatory he says; I used an ice-cutter before March 1829. I think Mr. Pratt made it for me. Mr. Wyeth forbid my using it. I don't know what a "cross cutter" is.
- 14 To the fourteenth cross interrogatory he says; I know not.
- 15 To the fifteenth cross interrogatory he says; I know nothing about this. I know nothing about any such suit.
- 16 To the sixteenth cross interrogatory he says; It was on Fresh pond. I can't state exactly when. I don't recollect who were present. I

E. Stedman dont recollect what led to the conversation. I have stated all that I recollect him to have said.

- 17 To the seventeenth cross interrogatory he says; No such application was ever made to me by either of the plaintiffs nor do I know that Barker was authorised by them to borrow of me. I saw Barker using it afterwards.
- 18 To the eighteenth ^{cross} interrogatory he says; I know not.
- 19 To the nineteenth cross interrogatory he says; I know not. I cant swear that I used mine before 1829, but I think I did. Mr. Wyck forbade my using it.
- 20 To the twentieth cross interrogatory he says; I know not. I cant fix the date of the time when I first saw Wyck's machine in use.
- 21 To the twenty first cross interrogatory he says; I know not.
- 22 To the twenty second cross interrogatory he says; I am a farmer and not a practical mechanic. I have never made machinery, nor studied books on the subject. I have no other knowledge than that derived from what I have seen and observed.
- 23 To the twenty third cross interrogatory he says; I cannot say on what mechanical principle Wyck's machine is constructed. ^{It is on the plan of a carpenter's plough plane.} The most essential part is the cutting part, because it is required to cut a deep groove.
- 24 To the twenty fourth cross interrogatory he says; I constructed my first machine on the plan of a carpenter's marking iron and my second one, on that of a carpenter's plough plane. I consider the cutting parts the most essential parts, because these, ~~do~~ the work entirely.
- 25 To the twenty fifth cross interrogatory he says; It cuts a groove like a carpenter's ^{plough} plane, but it moves with more power. A carpenter's plough plane has but one iron or cutting point, and Mr. Wyck's machine has several. The only resemblance is in the cutting point.
- 26 To the twenty sixth cross interrogatory he says; I know not.
- 27 To the twenty seventh cross interrogatory; I cannot answer this interrogatory any further than I have already done in my answer to the 19th and 20th direct Qs. I dont recollect who were present or what led to the conversation.
- 28 To the twenty eighth cross interrogatory he says; I have used them for the last eight years. Mr. Wyck has often passed very near so that he must have seen me, when using it. I cant say positively as to Mr. Tudor. I have constantly used it alongside of their men.
- 29 To the twenty ninth cross interrogatory he says; No one ever told me that the plaintiffs considered me as infringing their patent.
- 30 To the thirtieth cross interrogatory he says; I know not.
- 31 To the thirty first cross interrogatory he says; I know not.

- 32 To the thirty second cross interrogatory he says; I have no recollection of ever having seen or heard of such a letter
- 33 To the thirty third cross interrogatory he says; I know not
- Ober Steadman

Answers of James Rand to interrogatories on behalf of the defendants.

James Rand

- 1 To the first interrogatory he says; I live in Cambridge and own a carriage Smith
- 2 To the second interrogatory he says; I have never been engaged in the business of cutting ice.
- 3 To the third interrogatory he says; It was either in 1826 or 1827 I don't recollect which, that I first saw a machine for cutting ice. I saw it in old Cambridge. It was made partly of wood and partly of iron. I don't remember much about that one. I think it had four cutters, which were fastened to a frame by keys. It was to be drawn by a horse
- 4 To the fourth interrogatory he says; it resembled a cashmere plow. It also resembled a harrow. It cuts a groove other tools
- 5 To the fifth interrogatory he says; I don't know who made it nor under whose directions it was made.
- 6 To the sixth interrogatory he says; I have made machines for cutting ice differing from those of the plaintiffs. They consist of a plate of iron fastened to handles like a plough. There was a plate of iron on one side to serve as a guide. There were five cutters, I believe, with steel points and they cut one groove at a time. I made one in 1836, one in 1838, one in 1839 or 1840. I also made one in 1835. Wyeth's machine cuts two grooves at a time, and this, only one. Wyeth's had a man to sit upon it to keep it steady upon the ice, this one was held by a man to keep it in its place. It resembled a plough as much as any thing
- 7 To the seventh interrogatory he says; I took the principle from the pattern brought to the shop.
- 8 To the eighth interrogatory he says; I am acquainted with Wyeth's machine and that of defendants. Wyeth's cuts two grooves at a time and then it is turned over and cuts again. The defendants' cuts ~~two grooves~~ one groove at a time and is guided by a man who holds the handles. Wyeth's guides itself and a man rides on it to keep it down.

- 9 To the ninth interrogatory he says: Ughen, I was in company with Mr. Pratt, in 1828 I think, we made one machine for Mr. Uyeck. I can't state the exact time. It was made wholly of iron, in the shape of an oblong square, with five cutters on a side, each cutter fastened with two bolts. It was similar to that now used by plaintiffs.
- 10 To the tenth interrogatory he says: Beside the one above-mentioned made for Uyeck by Mr. Pratt and myself, I have made four. One was made for Mr. Eben. Stedman and Mr. Metcalf, one for Mr. Abel Uyeck, one for Mr. Augustus Croftman, I believe, one was for the defendants, Stone and Barnard. I don't know where they were to be used nor where they were used.
- 11 To the eleventh interrogatory he says: I never was.
- 12 To the twelfth interrogatory he says: I never have used them.
- 13 To the thirteenth interrogatory he says: I never used any.
- 14 To the fourteenth interrogatory he says: I never have.
- 15 To the fifteenth interrogatory he says: They cut ice on Fresh pond. I don't know how long they have cut.
- 16 To the sixteenth interrogatory he says: I have never cut ice.
- 17 To the seventeenth interrogatory he says: I have never used any.
- 18 to 25: To the various interrogatories from the eighteenth to the twenty fifth inclusive he says: I know not.
- 26 To the twenty sixth interrogatory he says: I did a first time Pratt to make a machine for the defendants. He did not know how to make one and he came to me to shew him.
- 27 To the twenty seventh interrogatory he says: I did not hear him say so. Nothing was said about Uyeck's patent.
28. 29. 30 To the other interrogatories, on behalf of the defendant he says I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says: I am not interested in the event of this suit. I have made no such agreement or undertaking.
- 2 To the second cross interrogatory he says: I am not and have not been so agreed.
- 3 To the third cross interrogatory he says: I have never cut ice.
- 4 To the fourth cross interrogatory he says: I know not.
- 5 To the fifth cross interrogatory he says: I know not.
- 6 To the sixth cross interrogatory he says: I cannot answer this question any more fully than I have already done in my replies to the 6th and 10th direct interrogatories.
- 7 To the seventh cross interrogatory he says: I never employed any person

James Rand to make a machine for me

8 To the eighth cross interrogatory he says; I know not.

9 to 13; To the ~~ninth~~ cross interrogatories ~~he says~~; from the ninth to the thirteenth inclusive - he says; I know not. I have never used any such machines

14 To the fourteenth cross interrogatory he says; I don't know who made the iron work of that machine. I was in partnership with Mr. Pratt when it was brought to the shop to be repaired. I don't whether Mr. Wyeth was going to get a patent for it.

15 to 17 To the cross interrogatories ~~he says~~; from the fifteenth to the ~~seventeenth~~ ^{seventeenth} he says; I know not.

18 To the ~~eighteenth~~ ^{eight} cross interrogatory he says; I was not his partner. I believe it was in 1836. He said himself he did not know how to make it and asked me to shew him.

19 to 21 To the cross interrogatories from the nineteenth to the twenty first inclusive he says; I know not.

22 To the twenty second cross interrogatory he says; All the knowledge which I have upon the subject of machinery, I have got from repairing machines, steam engines &c, and from what I have seen. I am a carriage-smith. I have helped make machines. I have never studied books any.

23 To the twenty third cross interrogatory he says; I know not.

24 To the twenty fourth cross interrogatory he says; I know not.

25 To the twenty fifth cross interrogatory he says; I know not.

26 to 33 To the various cross interrogatories, from the twenty sixth to the thirty third inclusive he says; I know not.

James Rand

United States of America. District of Massachusetts j. Boston
the eleventh, twelfth and sixteenth days of November A.D. 1840.

On these dates personally appeared before me, the subscriber, the aforesaid-
deponents and each of them, being by me carefully examined, cautioned
and sworn to tell the truth, the whole truth and nothing but the
truth, gave the deposition aforesaid and subscribed the same, the
deposition of each deponent being reduced to writing by me in his
presence. Each deponent was examined separately and none were present
at such examination but the deponent and the undersigned. The depositions
are taken by virtue of the Commission hereto annexed and to be used in
the cause therein mentioned.

Commissioner's fee \$20.00
deponents do 3.75

Geo. S. Hilliard
Commissioner &c &c

Wright v. Stone et al

Depositions of
Jonathan Stone, Eben
Stedman & James Reed
for Defendants -

Decr 10-1840
opened & certified in
Court. F. B. Clark

United States of America.

MASSACHUSETTS

NOT.....SS.

THE Circuit Court of the
United States, within and for the
Massachusetts District

TO

George T. Hillard
Charles Sumner.
Geo. D. Curtis
&
Edward E. Loring Esq. or either of them

KNOW YE, That, reposing confidence in your wisdom, prudence and
fidelity, we have appointed, and by these presents do authorize and empower you
to take the answers to the interrogatories hereunto annexed of

Robert L. Walcutt
Leonard Smith

and
Samuel Cookidge

Witnesses for the aforesaid.

to be used in a certain cause now pending in said Court, wherein

Matthew T. Pratt et al
vs
Duff

in

Leonard Stone et al.

And to this end, at certain days to be by you appointed for that purpose, to
cause said witnesses, as aforesaid, to be brought before you, and each witness, while
present before you, to examine carefully on oath touching the premises. And when
you shall have taken the examination as aforesaid, to reduce or cause the same to be
reduced to writing, and to be subscribed by each of said witnesses in your presence.
And the same, so taken and subscribed, to return, together with this COMMISSION and
your doings herein enclosed, sealed and directed to the Circuit Court aforesaid,
~~next to be~~ ^{now} holden at Boston, ~~on the~~ day of
~~next.~~ ^{to be returned as soon as the same shall have}
^{been opened.}

In testimony whereof, we have caused the seal of the said Circuit
Court to be hereunto affixed.

Witness, the Honourable Roger B. Taney at Boston,
this twenty fourth day of November in the year of our Lord
one thousand eight hundred and forty

Francis Bassett

CLERK.

N. B. You shall not, except by the consent of the parties in writing, permit either party to attend at the taking of the
deposition, either himself, or by any attorney or agent, nor to communicate by interrogatories or suggestions with the deponent
whilst giving deposition in answer to the interrogatories annexed to this commission. And you shall take such deposition
in a place separate and apart from all other persons, and permit no person to be present during such examination, except the
deponent and yourself, and such disinterested person [if any] as you may think fit to appoint as a clerk, to assist you in reduc-
ing the deposition to writing. And you shall put the several interrogatories and cross-interrogatories to the deponent in their
order, and take the answer of the deponent to each, fully and clearly.

U. S. Circuit Court . First Circuit.

Memorandum, 18.

vs. Daniel S. Mott et al.

vs.

Leonard Stone et al.

In Chancery.

Interrogatories to be proposed to Sabaz S. Walcott, Leonard Smith, and Josiah Coolidge, Witnesses to be produced and examined in behalf of the Defendants in this action.

1. What is your age, occupation, and place of business?
2. If you follow any mechanical trade or business, please state what it is, and how long you have followed it?
3. Have you had any means or opportunities of becoming acquainted with and using Carpenter's Tools? If yes, state what your means and opportunities have been?

4. Are you or not familiar with the tool or implement called a Carpenter's Plough, or Match Plane? If yes, state how long you have known and used such tool or implement.

5. Describe as accurately and minutely as you can, the different kinds of Carpenter's Ploughs or match-planes (if any) which you have seen or used. State how they are made? How they are operated? If made or operated in more than one way, describe all the different modes in which you know they are made and operated?

6. State in what manner and by what power said Carpenter's Ploughs are operated? and how they are directed, or made steady?

7. If you have known them to be used and operated by Horse-power, Steam-power, or any other power than the Hand, describe the different modes and all of them which you have known.

8. Please to state, also, for what purpose, to effect what object, horse-power or steam-power was applied to such Carpenters' Planes or Planes?
9. Have you ever seen an Ice-cutter such as is used by Plaintiff or Defendants, or both of them. Have you or not ever seen said Ice-cutters in operation?
10. Do you know of any Tool or Implement which has been long in common use, which resembles in its mode of operation or use, or in any particular the Ice-cutters used by said Plaintiff or Defendants, or both of them? If yes, state what Tool or Implement so resembles? Wherein the Resemblance consists? State particularly.
11. Please to look at the Ice-cutters in the possession of the Commissioners, and state, if you can, whether or not they or either of them resemble any Tool or Implement which has been long in common use? If yes, what Tool or

Instrument or Implement do they resemble?
and wherein? Be particular in describing the
points, if any, in which you find a Resem-
blance?

12. If you know of any other matter or
thing which will be of use to the Defendants
in the hearing of the above case, please state
the same as fully as if thereto particularly
interrogated.

{ Geo. Tyler Bigelow,
Solicitor to Defendants.

Cross - Interrogatories
to be proposed, on behalf of the Plaintiff,
to Sabaz F. Walcutt, Leonard Smith, and
Joshiah Cookidge, Witnesses to be produced
and examined by the Defendants

1. Are you, in any manner, interested in the
result of this case? Have you agreed or
undertaken in any way to pay any part of
the expense of the defence of the same, or
the costs thereof, or any damages and costs
that may be recovered against the Defendants

or any one for infringing upon the Plaintiff's Patent, or for the use of any machine for cutting ice?

2. Are you in any way directly or indirectly interested or concerned in contesting the validity of the Plaintiff's claim to a Patent for the machine commonly called Brett's Ice-cutter.

3. Are you in any way related to or connected with either of the Defendants? If so, with whom? and in what way? Have you often seen and conversed with any or either of them on the subject of these interrogatories? If so, with whom?

4. Are you, or have you ever been engaged in the ice-business? If so, state whether you are or have been so engaged on your own account, or in the Employ of others? If the latter, state in whose Employ?

5. If you shall say that you have ever seen one or more Carpenters 'Hunks' or any other than

the common kind, and having more than one. Describe or explain, state when and where you first saw each of them? Who made them? Who owned them? and for what purposes were they used respectively? and where may the same now be seen?

6. If you shall say that you have known Carpenters' Moulds to be operated by any other power than human, state how you obtained or derived such knowledge? Whether from actually witnessing the same, or how otherwise? State also when and where, and by whom, and for what purpose you saw such machine so operated? and how often? and for how long? and who was present with you at the time?

7. By what means are the Carpenters' Moulds which you have testified about, guided or governed as to the direction of the first cut or groove made by it when in motion? and by what means are they guided or governed as to the direction and parallelism of any

7 - 5

subsequent cut a groove?

8. Have you any skill in a knowledge of the mechanic arts? or any knowledge either scientific or practical of machinery and the clearing of ice, when and how did you acquire such knowledge? and with what particular Branch are you best acquainted?

9. If you shall undertake to say that either the Plaintiff or Defendants' Ice-cutter resembles any Tool or implement in common use, state which of said Ice-cutters so resembles said Tool? When did you first see the Tool which it so resembles? and where? and state fully and minutely wherein do the differences between said Tool and said Ice-cutter consist?

{ Gardner & English,
Solicitors for Opps

A true Cert.

Wm. H. Hest

Wm. H. Hest (Clerk.)

- 1 To the first interrogatory he says; my age is forty seven; I am a mill-wright; I reside in Walcutt.
- 2 To the second interrogatory he says; I have been engaged in the business of a mill-wright ~~in~~ ever since I was twenty two years old.
- 3 To the third interrogatory he says; I have used a good many carpenters' tools. I have built houses and barns as well as mills, and ~~id also~~ worked at the carpenters trade before I was a mill-wright.
- 4 To the fourth interrogatory he says; I am familiar with the carpenters plough or match plane and have been so ever since I was fourteen years old.
- 5 To the fifth interrogatory he says; The common carpenters plough is used for cutting grooves in doors &c. It consists of an iron chisel, fastened into a wooden box with keys. There is another piece of wood on the side, called a rabbit, which is used for a gauge. The iron chisel may be made more or less deep, as wanted. There is an iron plate at the bottom where the cutting point is, and which runs in the groove cut by it. This kind is moved by hand. Formerly I have used a much larger one and made in a more solid manner, but constructed in the same manner. It was four times as large as the ^{common} carpenters plough. It was used for cutting grooves in timbers for boards to be placed in, in barns. I have not seen any used recently. Sometimes this plough was drawn across the timber by hand, requiring four men and sometimes by oxen, the timber being fastened. I have often used it with oxen.
- 6 To the sixth interrogatory he says; This large plough had a pin or handle in the back part of it, to steady it. When drawn by oxen, it took one or two men to steady it.
- 7 To the seventh interrogatory he says; They were drawn either by men or oxen. Sometimes horse power was used.
- 8 To the eighth interrogatory he says; It was to save the labor of the men, that oxen or horses were used.
- 9 To the ninth interrogatory he says; I have seen the ice-cutters of the plaintiff and defendant, but have never seen them in operation.
- 10 To the tenth interrogatory he says; They resemble the carpenters plough or match plane, in the chisel or cutting point and also in the iron plate which steadies the chisel and moves in the groove cut by it.
- 11 To the eleventh interrogatory he says; I have looked at these ice-cutters and they resemble the plough or match plane, as I have before stated.
- 12 To the twelfth interrogatory he says; I know not.

Answers to cross interrogatories.

- 1 To the first cross interrogatory he says: I am not interested in any manner in the result of this case. I have not made any such agreement or undertaking.
- 2 To the second cross interrogatory he says: I am not.
- 3 To the third cross interrogatory he says: I am not related to or connected with any of the defendants. I have had only one conversation with Mr. Stearns on the subject of these interrogatories.
- 4 To the fourth cross interrogatory he says: I have never been engaged in the ice business.
- 5 To the fifth cross interrogatory he says: I never saw any with more than one iron.
- 6 To the sixth cross interrogatory he says: I have frequently seen them drawn by oxen. It was in the town of Stow about thirty years ago. It was used by my father and I worked for him. It was used for cutting grooves in a timber used in the building of barns and which ~~was used~~ made the projection of the eaves. I saw it used three or four times a year. In two or three hours it would do all the cutting required for a barn. Almost all the persons who worked with my father are either dead or moved away.
- 7 To the seventh cross interrogatory he says: They were guided by sometimes one man and sometimes by two. There was a handle in the back part of the plough for that purpose.
- 8 To the eighth cross interrogatory he says: I have a practical knowledge of mill-work. That is the business I now follow.
- 9 To the ninth cross interrogatory he says: I think they both resemble a carpenter's plough. I can't remember when I first saw a carpenter's plough; probably forty years ago. In these machines there are three or four cutting points, instead of one; and these points are stationary, and cannot be raised or lowered, as is the case with the carpenter's plough. These are the only material points of difference I know of.

Jabez S. Walcutt

Josiah Coolidge Answers of Josiah Coolidge to interrogatories on behalf of the defendants

- 1 To the first interrogatory he says: I am fifty three years old; I am a farmer, I reside in Leambridge.
- 2 To the second interrogatory he says: I do not follow any.

- 3 To the third interrogatory he says; I have had a house built for me, and also three barns and various other small buildings. I also helped my father when he had his house and barn built. I frequently used to keep the carpenters and constantly saw them while engaged in building, & by these means I obtained a knowledge of carpenters tools and the manner of using them.
- 4 To the fourth interrogatory he says; I am familiar with the carpenters plough and with the use of it and have known about it as long as about any tools.
- 5 To the fifth interrogatory he says; The common match-plane, or hand-plough consists of a steel chisel - fastened into a wooden body, by keys. It has a rabbit or quage to set it at the distance wanted and to guide it, when in use. It is used to cut grooves, and is moved by hand. When I was a young man, I used to see one of a similar kind, but very much larger. It had an inch framing chisel put into a solid stock, about three feet long, with a rabbit or quage of about an inch. This was used to cut grooves in the barn timbers called plates and beams, in order to have the ends of boards inserted. It was drawn by a horse and kept down by the weight of a man.
- 6 To the sixth interrogatory he says; They were drawn by a horse and kept steady by the weight of a man.
- 7 To the seventh interrogatory he says; I have only known them to be used by horse power.
- 8 To the eighth interrogatory he says; It could not have been drawn by a man.
- 9 To the ninth interrogatory he says; I have seen them both in operation.
- 10 To the tenth interrogatory he says; They are both upon the same principle as the carpenters plough. The cutter is precisely the same thing.
- 11 To the eleventh interrogatory he says; I have looked at these cutters and answer as above to the 10th interrogatory.
- 12 To the twelfth interrogatory he says; I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says; I am not interested in the result of this case. I have not made any such agreement or undertaking.
- 2 To the second cross interrogatory he says; I am not.
- 3 To the third cross interrogatory he says; I am not connected with or related to either of the defendants. I have conversed with Mr. Barnard once about the subject of these interrogatories.
- 4 To the fourth cross interrogatory he says; I have cut ice, and on my own account.

- Jos. Coolidge
- 5 To the fifth cross interrogatory he says: I never saw one that had more than one chisel.
 - 6 To the sixth cross interrogatory he says: I have seen them drawn by horse-power. It was at Watertown about thirty three years ago. It was used by my father in the building of his barn. I never saw it in use but once, and for about three hours. It was used for cutting ten grooves in barn timbers. My father and John H. Coolidge were present. They are both dead.
 - 7 To the seventh cross interrogatory he says: They cut only one groove in a timber. They were steadied by the weight of a man, and they also had a gauge.
 - 8 To the eighth cross interrogatory he says: I have no other knowledge of machinery or the mechanic arts, than that derived from observation. I have never been a mechanic.
 - 9 To the ninth cross interrogatory he says: They both resemble a carpenter's plough. The defendant's resembles it the most. I first saw the carpenter's plough, about thirty three years ago. The difference is that the ice-cutters have several chisels or cutting points. I see no other.
- Josiah Coolidge

J. Leon Smith Answers of J. Leonard Smith to interrogatories on behalf of the defendants

- 1 To the first interrogatory he says: I am thirty seven years old; I am a house-wright and reside in Watertown.
- 2 To the second interrogatory he says: I am a housewright and have been so for seventeen years.
- 3 To the third interrogatory he says: I have always used them in my business.
- 4 To the fourth interrogatory he says: I have known and used the carpenter's plough ever since I have been a housewright.
- 5 To the fifth interrogatory he says: The common match plane is an iron-chisel or cutter in a wooden stock fastened with a key. It is used to make tongues and grooves to match boards together. The carpenter's plough is pretty much the same thing and is used for grooving. These are used by hand. I have never seen them used in any other way.
- 6 To the sixth interrogatory he says: By the hand.
- 7 To the seventh interrogatory he says: I have never known them to be used by other power than that of the hand.
- 8 To the eighth interrogatory he says: I know not.
- 9 To the ninth interrogatory he says: I have seen them both in operation.
- 10 To the tenth interrogatory he says: They both resemble the carpenter's plough. The chisels or cutting points are alike and they cut a similar groove.
- 11 To the eleventh interrogatory he says: I have looked at them, and they resemble the carpenter's plough, as I have above stated.

John Smith

12 To the twelfth interrogatory he says; I know not.

answers to cross interrogatories

- 1 To the first cross interrogatory he says; I am not interested in the result of this case. I have made no such agreement or undertaking.
- 2 To the second cross interrogatory he says; I am not.
- 3 To the third cross interrogatory he says; I am not related to or connected with either of the defendants. I have had one or two conversations with Mr. Barnard on the subject of these interrogatories.
- 4 To the fourth cross interrogatory he says; I have worked in the ice business in the employment of the defendants.
- 5 To the fifth cross interrogatory he says; I have never seen a carpenter's plough with two lions.
- 6 To the sixth cross interrogatory he says; I have never seen them operated by any other than hand power.
- 7 To the seventh cross interrogatory he says; They were guided by hand.
- 8 To the eighth cross interrogatory he says; I am acquainted with my own business of carpenter or horse weight and no other.
- 9 To the ninth cross interrogatory he says; Both of these cutters resemble a carpenter's plough. I saw a carpenter's plough when I was seven or eight years old. The difference is that the cutters are drawn by horse power and have several cutters instead of one.

John F. Smith

United States of America District of Massachusetts City of Boston
the thirtieth day of November and the first and second days of December
A.D. 1840

On these days, personally appeared before me the subscriber, the aforesaid deponents and being by me - carefully examined, cautioned and sworn to tell the truth, the whole truth and nothing but the truth - they respectively gave the foregoing depositions and subscribed the same, each deposition having been reduced to writing by me in the presence of the deponent. These depositions were taken by virtue of the annexed commission and to be used in the case therein mentioned.

Geo. S. Willard

Commissioner &c &c

Commissioner's fees \$ 7.00
Deponents -- do. 3.75
Travel --

Weyeth et al vs Stone & Co

Depositions of
Sabey, Walcott, Cook
Larkin & second Smith
for Defendant -

Decr 10-1840 - Read
I certify in book
F. B. Clark -

THE *Circuit* Court of the
United States, within and for the
Massachusetts District

TO *George S. Hillard, Esq. & George T. Curtis & Edward G. Loring all of Boston in said District, Esquires or to either of them*

KNOW YE, That, reposing confidence in your wisdom, prudence and fidelity, we have appointed, and by these presents do authorize and empower you to take the answers to the interrogatories hereunto annexed of

James S. Reed, Severniah Russell, Smith Bright, David Haynes, Thomas Richardson, William Richardson & William Eay, Witnesses to be produced and examined in behalf of the Defendants to be used in a certain cause now pending in said Court, wherein

Nathaniel Wyeth et al are Pls in Eq. and Leonard Stone et al are Ds.

And to this end, at certain days to be by you appointed for that purpose, to cause said witnesses, as aforesaid, to be brought before you, and each witness, while present before you, to examine carefully on oath touching the premises. And when you shall have taken the examination as aforesaid, to reduce or cause the same to be reduced to writing, and to be subscribed by each of said witnesses in your presence. And the same, so taken and subscribed, to return, together with this COMMISSION and your doings herein enclosed, sealed and directed to the *Circuit* Court aforesaid, next to be holden at Boston, on the *fifteenth* day of *May* next.

In testimony Whereof, we have caused the seal of the said *Circuit* Court to be hereunto affixed.

Witness, the Honourable *Roger B. Taney* at Boston, this *Second* day of *November* in the year of our Lord one thousand eight hundred and *Forty*

James Bassett CLERK.

N. B. You shall not, except by the consent of the parties in writing, permit either party to attend at the taking of the deposition, either himself, or by any attorney or agent, nor to communicate by interrogatories or suggestions with the deponent whilst giving deposition in answer to the interrogatories annexed to this commission. And you shall take such deposition in a place separate and apart from all other persons, and permit no person to be present during such examination, except the deponent and yourself, and such disinterested person [if any] as you may think fit to appoint as a clerk, to assist you in reducing the deposition to writing. And you shall put the several interrogatories and cross-interrogatories to the deponent in their order, and take the answer of the deponent to each, fully and clearly.

U. S. Circuit Court

First, Circuit.

In Chancery

Nathaniel Wyeth et al. vs Leonard Stone et al

Questions to be "proposed to James S. Reed,
Benjamin Russell, Smith Bright, David
Haynes, Thomas Richardson, William Richardson
and William Gay, Witnesses to be "produced
and examined in behalf of the Defendants
the above entitled case.

1st Where do you reside and what is your occupation?

Q. - Whether or not have you been engaged in the business of cutting ice - If yes, how long & where have you cut the same? on what pond or ponds?

3. How ^{do you} affect, i.e.? If with a machine describe particularly how the machine is made and how it operates?

4th — Where do the Plaintiffs, Indor and
 J. J. Wyatt cut their ice? and how long
 have they cut ice on that Pond?

5th --- (During the time you have cut ice with a machine, state how much of the time if any, you have so cut ice in the presence of and in plain sight, of Frederick Tuckor and Nathl. J. Wyeth or one of them

or persons in their employment?

6th Were you ever forbidden to use the ice cutter you have described, by any person? If yea, when, by whom and why?

7th Have you or not ever heard that any one had a "patent" for an ice cutter - if yea, when - and who did you hear had the "patent"?

8th Have you or not ^{ever} received "permission" to use an ice cutter? if yea, when and from whom, and why was such permission given?

9th Is there any difference between the ice cutters used by "Seldon and Wyeth" and those used by Stone and Company? if yea, describe the difference particularly.

10th (Do you know of any implement or tool in common use which resembles the ice cutter used by said Stone and Company? if yea name it, and describe minutely wherein the resemblance consists -

11th Have you or not ever seen a carpenter's plough or match plane so constructed with two teeth placed one after the other, that the second tooth should cut a groove deeper than the one which preceded it? if yea describe it.

Objected to as being
W. W. Gardner

How is a Carpenter's plough used? Have you or not ever known it, to be drawn by horses? or Oxen for the purpose of cutting grooves in timber? If yes, when, how often, and describe particularly the mode of its operation and use in this way?

13th If you know of any other matter or thing which may be material to the Defendants, please state the same as fully and particularly as if, through specially interrogated.

Geo. Tyler Bigelow,
Solicitor for Defendants,

Cross Interrogatories to be proposed
on behalf of the Plaintiffs

1st, Are you in any manner interested in the result of this case? Have you agreed, or undertaken in any way to pay any part of the expense of the defence of the same or the costs thereof? or any damages or costs that may be recovered against the defendants or any one for infringing on Plff's patent, or for the use of any machine for cutting ice?

2. Are you in any way directly or indirectly

rectly interested or concerned in contesting the validity of the Plaintiff's claim to the Patent of the Machine or ice cutter commonly used by them?

3^d — Are you or have you been engaged in cutting ice for others ^{or} on your own account. If ^{on} your own account, how long have you so cut? If for others, state in whose employment you have been in said business, & in whose employment you now are? State also whether you cut ice with a machine & whether that machine is similar to the machine used by Dfts?

4th — If in answer to Dfts. 3^d Int. you shall say that you do cut ice with a machine, state when you got, said machine — who made it for you? how long have you used it? And give the date as accurately as you can when said machine was made & where, & when you first began to use it, and state how you are enabled to fix said date?

5. What, was the first machine for cutting ice which you ever saw, describe it, whose was it, who made it — where and when did you see it? What became of it — & when is it, now?

6 — If you shall undertake to say in answer to dfts 5th Int. that you have cut ice with a machine in presence of said Tudor or Wyeth

State particularly which of them, when? where? how many times, & for how long at each time? How near were said Tudor or said Wyeth to your said Machine? What were they doing at the time? & do you know that they or either of them, saw you? & if, yea, how do you know it? ^{all or} Wholly was present, on any of said occasions (if you testify to any)?

7. If in answer to Defts 5th Int. you shall state that you have cut ice with a machine in presence & plain sight, of persons in the employment of said Tudor & Wyeth, state particularly when? where? how many times? & for how long at each time? Who were said persons? Name each of them. How near were they to your said Machine? What were they doing at the time? Do you know that they or either of them saw you using said Machine? If yea, how do you know it?

Do you know that they or either of, them were in the employment of Tudor or Wyeth? If yea, how? Do you know that they or either of them communicated what they had seen to Tudor or Wyeth? if yea, how do you know it? State particularly names of the individuals who so communicated it to Tudor, or Wyeth. and when said communications were made?

8 - If you shall answer Deft's 8th int. in the Affirmative state particularly when it was, describe the cutter whose was it. To whom did you apply for said permission, and how do you know the reason why such permission was given? State when, where, & how, and for what length of time said cutter was to be used? & how long was it in fact used?

9. Do you know that Wyeth or Adam or any person in their behalf, have ever forbidden any one to use an ice cutter or notified any one that the use of such machine was an infringement on their rights, or that they or either of them have made any objection to the use of any machine for cutting ice, by any one? If yes, state particularly when, where, how often, to whom? describe the cutters the use of which was so forbidden or objected to? And state who were present, at each time.

10 What knowledge have you of the ice cutter used by Adam & Wyeth? Where did you get your knowledge of its construction, mode of operation & the principles upon which it is made and operates?

11 State the particulars, all and each

of 85

of them in which the machine used by Stone ~~is~~ resembles that of Hador and Wyeth. And what is in your judgment the most essential part of each of the said machines & why you so consider it?

12. What has been your experience and means of acquiring a knowledge of machinery, the principles of constructing machines for any particular purpose or mode of operation?

13. Have you ever been engaged in making machines or in any mechanical business? If yea, state when, where, for how long, and in what one of the Mechanic Arts have you been employed?

14. Have you ever studied Mechanics as a science, or have you any theoretical knowledge of machinery? If yea, state when and where you have acquired such knowledge, what books you have read on the subject & how long since?

15. What means have you of judging of the identity of either Wyeth's or Stone's Reeler with, or their similarity or resemblance to any tool or implement, in common use, in principle & mode of operation?

16. What do you conceive to be the principle of mechanics upon which the machine commonly used by P. P. is constructed?

17. If you shall say in answer to Defendants 11th interrogatory that you have ~~never~~ seen such a Carpenter's "plough" or "match" "plane" as ^{is} ~~is~~ ^{ingue} red about in said interrogatory, state when, giving the date as near as you can and your means of fixing it, ^{and where} naming the State, Town & place "particularly" in whose profession you saw it. ^{And who was present at the same time.} What made it? When & where was it made? and who owned it? did you ever see it used? If so when and where and by whom? and who was present at the time? & what was the mode of its operation? & what was done with it? Where is it now? Did said machine or implement resemble the common Carpenter's plough, in all other respects, except in having two successive chisels instead of one only, and if not, in what did it resemble it? And in what did it differ from it? Were the cutting "points" a part of the frame itself, or were they moveable chisels, requiring adaptation for use? how was the implement governed and guided as to the directions of the grooves or cuts made by it? Was there not a projection of the frame below the chisels or cutting points intended to apply to the edge of a timber or other material to be grooved so as to govern and guide the implement, by that edge? Could it, be applied to grooving a surface which had

no such edge? If so how used by what means could it be guided in grooving such surface? Was it capable of cutting two or more parallel grooves at one and the same movement? Was it capable after one groove had been cut, of being governed & guided by such groove in cutting other grooves parallel thereto & parallel to each other,?

18th. In answer to the twelfth interrogatory you have testified that you had known a carpenter's plough to be drawn by horse or oxen for the purpose of cutting grooves in timber; please state precisely how you know of it? Did you see it yourself? If so, when? State the date or dates as nearly as you can. State your means of fixing that date or those dates. When did you see it? Name the State, Town and place particularly in which you saw it? Who was present at the time, and if more than one, each time? Name each and every person who owned the machine? Who was using it? What was actually done with it in your presence? Did it cut a straight groove or not? How was it guided & governed in cutting that groove? in the same manner as a carpenter's plough is usually by a projection applied to the edge of the timber or other material to be cut or how

otherwise? Where is that machine now?
Where & when & by whom was it made?

19th If you know anything more than what
you have stated in answer to previous
questions which may be of Advantage to
the Plaintiffs in this case; please declare
the same, as fully & particularly as if
there is specially interrogated.

Gardiner & English
Solicitors for Plaintiffs

A true copy Attest Francis Bassett Clerk

Answers of James B. Read to interrogatories on behalf of the defendants.

- James B. Read
- 1 To the first interrogatory he says; I reside in Boston and keep a stable and am also engaged in the ice business.
 - 2 To the second interrogatory he says; I have been for five years engaged in the business of cutting ice, principally on Mystic and Fresh ponds.
 - 3 To the third interrogatory he says; I cut it with a machine precisely like that of the defendants in this suit. It is a plate of steel with five cutters to it fashioned to plough handles in with a plate of iron on the ~~end~~^{right} for a guide. It is drawn by a horse and guided by a man and cuts one groove.
 - 4 To the fourth interrogatory he says; They cut ice on Fresh pond and have done so for ten years and upwards.
 - 5 To the fifth interrogatory he says; Always when I have cut ice on Fresh pond, either Mr. Tudor or Mr. Wyck or some persons in their employment have been present and in plain sight. I have also cut in their presence on Spot pond.
 - 6 To the sixth interrogatory he says; I never was forbidden by any one.
 - 7 To the seventh interrogatory he says; I never heard of any till last year. After this suit was commenced, I heard that Mr. Wyck had a patent.
 - 8 To the eighth interrogatory he says; No Sir, I never have.
 - 9 To the ninth interrogatory he says; Tudor and Wyck's cut two grooves at a time and guide itself; a man sitting on it to make it cut deeper. Stones cut one groove and is guided and never examined the cutters sufficiently to state their difference, with any minuteness.
 - 10 To the tenth interrogatory he says; I know not.
 - 11 To the eleventh interrogatory he says; I never have seen any.
 - 12 To the twelfth interrogatory he says; I know not.
 - 13 To the thirteenth interrogatory he says; I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says; I am not interested in the result of the case. I have made no such agreement or undertaking.
- 2 To the second cross interrogatory he says; I am not.
- 3 To the third cross interrogatory he says; I have always cut ice on my own account. I cut it with a machine like that of defendants.
- 4 To the fourth cross interrogatory he says; The first one I used I bought of the estate of E. W. Mitchell, in December 1835, I think. I was told.

- that this was made by Messrs. Peirce and Read. The second one was made for me sometime at the close of 1837. They are alike. I have always used both. The second cut, deeper than the other. I bought a third one of Abel Ugech in 1838 which I have used since. ~~and which I have used since~~. I cannot state the precise time when any of them came into my possession.
- 5 To the fifth cross interrogatory he says; I cannot recollect which was the first machine I ever saw, whether it was Ugech's or Steadman's, or when I saw it.
- 6 To the sixth cross interrogatory he says; I remember seeing Mr. Tudor once on Fresh pond, when my men were cutting. He was about twenty was off, looking on. I cannot fix the date. I have seen Mr. Ugech, again and again, every winter for four winters (except one winter when he was absent) near my men, superintending his men. My men and his men have been present on these occasions.
- 7 To the seventh cross interrogatory he says; It was on Fresh pond and Spot pond. I cannot say how many times, but ~~as often as~~ ^{frequently} every winter for the last five winters. I can't say how long at a time. I remember A. Howe, Jno. Barker and B. Wells. They were within a few rods of my machine. Some of the men were cutting ice, some superintending and some firing the buildings. They could not help seeing the machine. I have seen Mr. Ugech directing these men and have seen them putting ice into the plaintiff's ice house. I don't know whether these men communicated what they had seen to Messrs. Tudor and Ugech.
- 8 To the eighth cross interrogatory he says; I know not.
- 9 To the ninth cross interrogatory he says; I know not.
- 10 To the tenth cross interrogatory he says; I have no knowledge of it.
- 11 To the eleventh cross interrogatory he says; I cannot describe the differences between the two machines any further than. I have already done in my answer to the ninth direct int. I do not know what is the most essential part of the machine.
- 12 To the twelfth cross interrogatory he says; I have no such knowledge or experience.
- 13 To the thirteenth cross interrogatory he says; I never have.
- 14 To the fourteenth cross interrogatory he says; I never have studied mechanics and have no theoretical knowledge of machinery.
- 15 To the fifteenth cross interrogatory he says; I know not.
- 16 To the sixteenth cross interrogatory he says; I know not.
- 17 To the seventeenth cross interrogatory he says; I know not.
- 18 To the eighteenth cross interrogatory he says; I know not.
- 19 To the nineteenth cross interrogatory he says; I know not.

Answers of Jeremiah Russell to interrogatories on behalf of the defendants

- 1 To the first interrogatory he says; I live in Watertown and am a farmer.
- 2 To the second interrogatory he says; I have been engaged in the business of cutting ice, three or four years, on Fresh pond and in Cook pond in Watertown, with a machine. For four or five years before, I cut it with axes and saws.
- 3 To the third interrogatory he says; I cut it with a machine. It is a bar of iron with four cutting points, fastened to handles like plough handles and guided by another bar of iron on one side. It is drawn by a horse and cuts one groove. It is just such a machine as that used by the defendants.
- 4 To the fourth interrogatory he says; They cut it on Fresh pond and have done so for many years, I could not say how long.
- 5 To the fifth interrogatory he says; Every season that I have cut ice on Fresh pond I have done so in presence and sight of either Mr. Tudor, or Mr. Wyeth or some persons in their employment.
- 6 To the sixth interrogatory he says; I never was.
- 7 To the seventh interrogatory he says; I have heard quite lately, I can't say when, that Mr. Tudor had a patent for an ice-cutter.
- 8 To the eighth interrogatory he says; I never have.
- 9 To the ninth interrogatory he says; There is a difference. Mr. Tudor's cuts two grooves at a time. Stone's cuts one. Tudor's guide, itself and a man sits on it to make it cut deeper. Stone's is held by a man who guides it. Tudor's turns bottom side up and goes back in the same furrow cutting it deeper. It has two sets of cutters; Stone's, only one.
- 10 To the tenth interrogatory he says; It is something like a carpenter's plough. The cutting points are like the iron part of the carpenter's plough, only it has four cutting points, and the plough only one.
- 11 To the eleventh interrogatory he says; I never did.
- 12 To the twelfth interrogatory he says; It is generally used by hand I never saw it used any other way.
- 13 To the thirteenth interrogatory he says; I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says; I am not interested in the result of this case. I have never made any such agreement or undertaking.
- 2 To the second cross interrogatory he says; I don't know that I am interested. I own a machine and if the plaintiffs prevail, I might be prevented from using it.
- 3 To the third cross interrogatory he says; I have always cut ice.

Geo. Russell

on my account, and do so now. I cut for the defendants, also, for two seasons, in 1838 and 1839. In those seasons, I also cut for myself. The machine I use is like that of the defendants.

4. To the fourth cross interrogatory he says; Mr. Dexter Pratt made my machine for me, in 1834, I think. I can't tell the exact date. I have used it ever since.
5. To the fifth cross interrogatory he says; The ^{first} machine for cutting ice which I ever saw was like that now used by the plaintiffs. I don't remember the date, but it was as much as ten years ago. Mr. N. J. Wyeth had it, at Mr. Pratt's shop. I understood Mr. Pratt made it. I don't know what became of it, nor where it is now.
6. To the sixth cross interrogatory he says; I can't say that I ever cut ice in Mr. Tudor's presence but once. That was about two years ago. He rode across the pond, and came within five or six rods of the machine. My brother and half a dozen of my men were present at the time. I can't say that he saw me at work, but I have no doubt that he did. I am not positive that Mr. Wyeth was ever present and near me while I was at work there.
7. To the seventh ^{cross} interrogatory he says; It would be impossible for me to tell how many times I have used my machine in presence of men in the employment of the plaintiffs, or how long at each time. From a week to a fortnight every winter, on Fresh Pond, I use it every day in their presence & in plain sight of them, so that they can't help seeing me. We are at work on the same pond ^{together} and sometimes very near. I remember Mr. Barker was one of them, also a Mr. ^{Howe} ~~Wheeler~~ ^{also a Mr. Goble}. I have seen the same men at work hoisting ice into Mr. Tudor's building and cutting ice with his machine. I don't know whether any of them ever communicated the fact to Mr. Tudor or Mr. Wyeth.
8. To the eighth cross interrogatory he says; I know not.
9. To the ninth cross interrogatory he says; I know not.
10. To the tenth cross interrogatory he says; I saw the machine once while it was at Mr. Pratt's and have also seen it at work occasionally. I have never examined it critically and have no minute knowledge of it.
11. To the eleventh cross interrogatory he says; They cut something alike. They are both drawn by a horse. Their cutting parts are alike & they cut a similar groove. The cutting part is the essential part of both machines, because that is the chief thing to be done.
12. 13. 14. To the twelfth, thirteenth and fourteenth cross interrogatories he says; I have no knowledge of machinery or its construction. I have never been a practical mechanic nor studied the subject in books.
15. To the fifteenth cross interrogatory he says; I have no other means than from having seen the plough plane used and knowing how it

Dr. Russell

operates.

16 To the sixteenth cross interrogatory he says: I don't know or I can answer this question.

17. 18. 19 To the seventh^{teenth}, eighteenth and nineteenth cross interrogatories he says:
I know not
Jennick Russell

Answers of Thomas Richardson to interrogatories on behalf of the defendants.

Thos. Richardson

- 1 To the first interrogatory he says: I reside in Watertown and am a farmer.
- 2 To the second interrogatory he says: I have been engaged in the business of cutting ice for eight or nine years, on Fresh pond.
- 3 To the third interrogatory he says: I cut it with a machine. Its handles are formed like plough-handles, to them is attached a bar or plate of iron, with three or four cutting points, and a plate of iron on one side to guide it. It is drawn by a horse and cuts one groove.
- 4 To the fourth interrogatory he says: They cut ice on Fresh pond and have cut there from ten to fifteen years.
- 5 To the fifth interrogatory he says: I don't distinctly recollect whether I have ever cut ice in the presence and sight of Mr. Tudor or Mr. Byers, with a machine. I don't know for a certainty that I have ever cut with a machine - in presence of men in their employment, but presume that I have.
- 6 To the sixth interrogatory he says: No Sir, I never was.
- 7 To the seventh interrogatory he says: I heard of it for the ~~the~~ first time last winter. I heard that Mr. Tudor had it.
- 8 To the eighth interrogatory he says: I never have.
- 9 To the ninth interrogatory he says: Mr. Tudor's cuts two grooves, Mr. Stone and Barnard's, one. A man holds Stone and Barnard's, by the handles, standing up. A man sits or lies on Mr. Tudor's to press it down.
- 10 To the tenth interrogatory he says: It resembles a carpenter's plough plane, as nearly as any thing. It cuts something like it.
- 11 To the eleventh interrogatory he says: I think I have seen such a plane, but I can't be positive.
- 12 To the twelfth interrogatory he says: It is used by hand; I have never known it to be used otherwise.
- 13 To the thirteenth interrogatory he says: I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says: I am not interested at all in the result of this case. I have not undertaken to pay any part of the expense of

Thomas Richardson this or any other suit, about the plaintiff's patent.

2 To the second cross interrogatory he says; I am not

3 To the third cross interrogatory he says; I have cut some for the defendants, but generally on my own account. I cut on my own account now. The machine I use is similar to that of the defendants.

4 To the fourth cross interrogatory he says; Mr. Wyman of West. Cambridge made it for me some time last winter. I can't tell the exact date. I have used it only one season. I don't recollect the exact time when I began to use it.

5 To the fifth cross interrogatory he says; I think the first machine I ever saw was, Mr. Wyer's, like that used by the plaintiffs now. I saw it on the pond, I don't remember when. I don't know who made it nor where it is now or what became of it.

6 To the sixth cross interrogatory he says; I know not.

7 To the seventh cross interrogatory he says; I know not.

8 To the eighth cross interrogatory he says; I know not.

9 To the ninth cross interrogatory he says; I know not.

10 To the tenth cross interrogatory he says; I have frequently seen men at work with it, but have never examined it and have no minute knowledge of it.

11 To the eleventh cross interrogatory he says; They resemble each other in the cutting parts. I should suppose the cutting parts were the most essential, because, without them, the other parts would be of no use.

12. 13 12 To the twelfth, thirteenth and fourteenth cross interrogatories he says; I have had no experience and no particular means of acquiring a knowledge of machinery. I have never been engaged in making machines, and have never studied the subject in books.

15 To the fifteenth cross interrogatory he says; merely from seeing them plane with a plough plane.

16 To the sixteenth cross interrogatory he says; I know not.

17 To the seventeenth cross interrogatory he says; I don't recollect anything distinctly about it.

18 To the eighteenth cross interrogatory he says; I know not.

19 I know not.

Thomas Richardson

David Haynes

Answers of David Haynes to interrogatories on behalf of the defendants.

1 To the first interrogatory he says; I reside in Watertown. My occupation is farming and the ice business, principally the latter.

2 To the second interrogatory he says; I have been engaged in the business of cutting ice for eleven winters, on Fresh pond.

- 3 To the third interrogatory he says; I cut it with a machine. It is made to draw by a horse. It is a plate of iron, with four or five cutters, fastened to plough handles, with a plate of iron on one side, fastened by bars of iron, for a guide. It cuts one groove at a time.
- 4 To the fourth interrogatory he says; They cut on Fresh pond and have cut there for twelve winters to my knowledge.
- 5 To the fifth interrogatory he says; I should think that half the time that I have cut with a machine, I have cut in the presence and sight of Mr. Wyck and persons in his employment.
- 6 To the sixth interrogatory he says; I never have been forbidden.
- 7 To the seventh interrogatory he says; I have heard that Mr. Tudor had a patent. It is about twelve years ago, since I first heard of it.
- 8 To the eighth interrogatory he says; I don't know that I have ever received permission. Mr. Wyck told me last winter that he probably never should molest me. This was said in reply to a question of mine, whether he intended to stop me from using mine.
- 9 To the ninth interrogatory he says; The cutter used by Tudor and Wyck has four rows of cutting points and cuts two grooves at a time. The one used by Stone and Barnard has but one row of cutting points and cuts but one groove at a time. The latter is used with handles and the former without. A man has to ride on Mr. Tudor's, to keep it into the groove; the other is merely held by the handles.
- 10 To the tenth interrogatory he says; It resembles, as near as anything, a carpenter's plough (plane). It cuts a similar groove and throws the chips out in a similar manner.
- 11 To the eleventh interrogatory he says; I never did, I think.
- 12 To the twelfth interrogatory he says; It is used by hand. I never saw it used any other way.
- 13 To the thirteenth interrogatory he says; I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says, I am not interested in the result of this case. I have not made any such agreement or undertaking.
- 2 To the second cross interrogatory he says; I can't say that I ~~have~~ am.
- 3 To the third cross interrogatory he says; I have cut on my own account for five winters and do so now. I have cut for Mr. Tudor and for Stone and Barnard. I cut with a machine which is like that of Stone and Barnard.

- 4 To the fourth cross interrogatory he says: It was made for me by Dexter Pratt. I have used it two winters. One winter before, I used a similar machine ~~was~~ made also by Dexter Pratt. I cannot tell the exact dates when I began to use either of these machines.
- 5 To the fifth ^{cross} interrogatory he says: The first machine - I ever saw was Mr. Frederic Tudor's. It was just such a one as that used by the plaintiffs, cutting two grooves & with four sets of cutters. I don't know who made it. I saw it on or near Fresh pond, eleven years ago, or thereabouts. I don't know what became of it or where it is now.
- 6 To the sixth cross interrogatory he says: I have cut ice with a machine, on Fresh pond, in presence of Mr. Wyeth, on one occasion last winter. He was there ten or fifteen minutes. He came near enough to the machine to put his hand upon it. I am sure he saw the machine because he spoke of it. He was doing nothing in particular. Eliza Parsons, Amasa Bird and some others were present. I presume I have cut ice at previous times in his presence, but I have no distinct recollection of any particular occasion.
- 7 To the seventh cross interrogatory he says: It was on Fresh pond. I can't state how many times I have cut in their presence or how long each time; I should say, more or less, every winter for five winters. They were cutting ice on the pond and ~~generally~~ ^{usually} sometimes would be ten or twenty rods distant and sometimes further. Abincha Howe once came up to me when I was cutting. This was about three winters ago. I also know the names of James Howard & Merrill Gager. They must have seen me if they had looked towards me. I know that Abincha Howe saw me, because he told me he thought I was intending on Mr. Tudor's grounds. He told me he was in Mr. Tudor's employment. I have heard the other men say they were in his employment and have seen them putting ice into his ice-house. I don't know whether any of them ever told Mr. Tudor or Mr. Wyeth.
- 8 To the eighth cross interrogatory he says: I know not. I never applied for any such permission.
- 9 To the ninth cross interrogatory he says: I know not.
- 10 To the tenth cross interrogatory he says: I am acquainted with it. I have frequently seen it used and have used it myself.
- 11 To the eleventh cross interrogatory he says: They resemble each other in the cutting parts. The cutting part is the most essential part in each machine, because its object is to cut the ice.
- 12 To the twelfth cross interrogatory he says: I have had no experience in that line. My means of knowledge come from what I have seen.
- 13 To the thirteenth cross interrogatory he says: I never have been so engaged.
- 14 To the fourteenth cross interrogatory he says: I have not.

David Haines

- 15 To the fifteenth cross interrogatory he says: Because I have seen and examined them both and seen them both at work
- 16 To the sixteenth cross interrogatory he says: I cannot tell
- 17 To the seventeenth cross interrogatory he says: I know not
- 18 To the eighteenth cross interrogatory he says: I know not
- 19 To the nineteenth cross interrogatory he says: I know not.

David Haines

Wm. S. Bright

Answers of Wm. S. Bright to interrogatories on behalf of the defendants.

- 1 To the first interrogatory he says: I reside in Watertown and am a farmer
- 2 To the second interrogatory he says: I have cut ice for about fifteen years on Fresh pond
- 3 To the third interrogatory he says: I cut it with a machine. It is a plate of iron, with four or five teeth or cutters, fastened to two handles, like plough handles, with a plate on one side for a guide, drawn by a horse and cutting one groove at a time.
- 4 To the fourth interrogatory he says: They cut on Fresh pond and have done so for ten years and upwards
- 5 To the fifth interrogatory he says: I cannot say whether I have ever cut it in presence of any of them, with a machine
- 6 To the sixth interrogatory he says: I never was
- 7 To the seventh interrogatory he says: I have heard that Mr. St. J. Wyck intended to take out a patent. I heard it about two years ago.
- 8 To the eighth interrogatory he says: I never have
- 9 To the ninth interrogatory he says: Mr. Tudor's cuts two grooves at a time and the defendants's one. The defendants's cuts a deeper groove than the plaintiffs's. One has handles and the other, not.
- 10 To the tenth interrogatory he says: I know not.
- 11 To the eleventh interrogatory he says: I never have
- 12 To the twelfth interrogatory he says: I know not. I have never seen one so used
- 13 To the thirteenth interrogatory he says: I know not

Answers to cross interrogatories

- 1 To the first cross interrogatory he says: I am not interested in the event of this case. I have made no such agreement or undertaking.
- 2 To the second cross interrogatory he says: I am not.

- 3 To the third cross interrogatory he says; I have always cut ice on my own account. Two or three winters ago I also cut some for Mr. Tudor. I cut with a machine like that of defendants.
- 4 To the fourth cross interrogatory he says; I think I have used my machine for three years. It was made by Dexter Pratt. I can't give the exact date of the time when it was made nor when I first began to use it.
- 5 To the fifth cross interrogatory he says; It was one similar to that of the plaintiffs. I saw it about three years ago. I think Mr. Urgech had it. It was on Fresh pond. I don't know what became of it or where it is now.
- 6 & 7 To the sixth and seventh cross interrogatories he says; I know not.
- 8 & 9 To the eighth and ninth cross interrogatories he says; I know not.
- 10 To the tenth cross interrogatory he says; I have no knowledge of it except from occasionally seeing it in operation, some years ago.
- 11 To the eleventh cross interrogatory he says; I don't know what points of resemblance there are. I suppose the most essential parts are the cutting parts, because they do the work.
- 12 To the twelfth cross interrogatory he says; I have had no such experience and means of acquiring a knowledge of machinery.
- 13 To the thirteenth cross interrogatory he says; I never have.
- 14 To the fourteenth cross interrogatory he says; I never have.
- 15 To the fifteenth cross interrogatory he says; I know not.
- 16 To the sixteenth cross interrogatory he says; I know not.
17. 18 19 To the seventeenth, eighteenth and nineteenth cross interrogatories he says; I know not.

Wm. S. Bright

William Gay

Answers of William Gay to interrogatories on behalf of the defendants

- 1 To the first interrogatory he says; I reside in Watertown and am a farmer and also am engaged in the ice business.
- 2 To the second interrogatory he says; I have cut ice on Fresh pond for six or seven years.
- 3 To the third interrogatory he says; I cut it with a machine. It is a plate of iron with cutters fastened to plough handles and drawn by a horse. It cuts one groove at a time. It is like Stone & Barnard's.
- 4 To the fourth interrogatory he says; They cut ice on Fresh pond and have cut there for many years.
- 5 To the fifth interrogatory he says; I don't know that I have ever cut ice with a machine in presence of either of them.
- 6 To the sixth interrogatory he says; I never was.

- 7 To the seventh interrogatory he says; I heard that Mr. Tudor had a patent, and heard it about two years ago.
- 8 To the eighth interrogatory he says; I never have.
- 9 To the ninth interrogatory he says; Mr. Tudor's has no handles; the defendant's has. Mr. Tudor's cuts two grooves and the defendant's one. Mr. Tudor's is drawn one way and then turned over and drawn back.
- 10 To the tenth interrogatory he says; I don't know of any.
- 11 To the eleventh interrogatory he says; I never have, to my recollection.
- 12 To the twelfth interrogatory he says; It is used by hand. I have never seen it used any other way.
- 13 To the thirteenth interrogatory he says; I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says; I am not interested in the result of this case. I have made no such agreement or undertaking.
- 2 To the second cross interrogatory he says; I am not.
- 3 To the third cross interrogatory he says; I have always cut ice ~~with a machine~~ on my own account. I cut it with a machine like that of the defendants.
- 4 To the fourth cross interrogatory he says; I bought it of Dexter Pratt who made it. I have had it two winters and had it as soon as it was made. I can't tell the exact time when I bought it or began to use it.
- 5 To the fifth cross interrogatory he says; It was a machine like that of the plaintiffs. I saw it about ten years ago, on the pond. Mr. Urgeek had it. I don't know who made it, or what became of it or where it is now.
- 6 To the sixth cross interrogatory he says; I know not.
- 7 To the seventh cross interrogatory he says; I know not.
- 8 To the eighth cross interrogatory he says; I know not.
- 9 To the ninth cross interrogatory he says; I know not.
- 10 To the tenth cross interrogatory he says; I have no other knowledge of it than from sometimes seeing it used. I have never examined it.
- 11 To the eleventh cross interrogatory he says; I can't say in what respects they resemble each other, nor do I know that one part is more essential than another.
- 12 To the ~~eleventh~~ twelfth cross interrogatory he says. I have no knowledge of machinery.
- 13 To the thirteenth cross interrogatory he says; I never have.
- 14 To the fourteenth cross interrogatory he says; I never have, I have no theoretical knowledge of machinery.

- 15 To the fifteenth cross interrogatory he says: I have none.
 16 To the sixteenth cross interrogatory he says: I know not
 17. 18. 19 To the seventeenth, eighteenth and nineteenth cross interrogatories he says:
 I know not.

William Gay

Answers of William Richardson to interrogatories on behalf
 of the defendants

- 1 To the first interrogatory he says: I reside in West Cambridge, and am a farmer and also engaged in the ice business.
- 2 To the second interrogatory he says: I have been engaged in the business of cutting ice for five or six years, on Fresh pond.
- 3 To the third interrogatory he says: I cut ice with a machine during our winter, winter before last. It is a plate of iron, with five or six cutters, one after the other, fastened to handles, like plough handles and drawn by a horse. It has a guide on one side, consisting of a plate of iron. It cuts one groove at a time.
- 4 To the fourth interrogatory he says: They cut ice on Fresh pond. I could not say how long - quite a number of years.
- 5 To the fifth interrogatory he says: I never cut ice in the presence of Mr. Tudor. I did once in the presence of Mr. Wyck. I have frequently cut in the presence of men in their employment. I could not say how many times nor how long.
- 6 To the sixth interrogatory he says: I never was.
- 7 To the seventh interrogatory he says: I heard that Mr. Wyck had a patent but I can't say when I heard it.
- 8 To the eighth interrogatory he says: I never have.
- 9 To the ninth interrogatory he says: Tudor's cuts on both sides; Stone and Barnard's only cut on one side. A man rides on Tudor's to keep it down; Stone and Barnard's is guided by handles. Tudor's cuts two grooves at one time; Stone and Barnard's only one.
- 10 To the tenth interrogatory he says: I do not.
- 11 To the eleventh interrogatory he says: I have not.
- 12 To the twelfth interrogatory he says: It is used by hand. I have never seen one drawn by horse, or oven.
- 13 To the thirteenth interrogatory he says: I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says: I am not interested in the result of

1 To the first cross interrogatory he says, I am not interested in the result of

Wm. Richardson

- this case. I have not made any such agreement or undertaking.
- 2 To the second cross interrogatory he says; I am not.
- 3 To the third cross interrogatory he says; I have always cut ice on my own account. The machine I use is like that of defendants.
- 4 To the fourth cross interrogatory he says; I bought it of Mr. Pratt and I suppose he made it. I used it one winter. I cannot tell the exact time when I bought it or began to use it.
- 5 To the fifth cross interrogatory he says; The first one I ever saw was Mr. Wyck's. It was on Fresh pond. I could not say how many years ago it was. I don't know who made it. Mr. Wyck had it. I don't know where it is now or what became of it.
- 6 To the sixth cross interrogatory he says; I cut once in the presence of Mr. Wyck, winter before last, I could not tell the exact day. He came across the pond and forbade my cutting because I was cutting in a place where he thought I had no right to. He came close to me. My man Thomas Eaton was present.
- 7 To the seventh cross interrogatory he says; I have cut in their presence on Fresh pond, several times. I can't say how many, nor when precisely, nor how long at each time. I remember Mr. Barker and Mr. Howe. Sometimes they have been within forty rods of me. They were hoisting ice. I am sure Mr. Barker once saw my mark because he came up and took hold of it. As to the rest, I cannot say. I don't know that these men were in Mr. Tudor's employment except from seeing them getting ice into his building. I don't know whether any of them ever told the plaintiff.
- 8 To the eighth cross interrogatory he says; I know not.
- 9 To the ninth cross interrogatory he says; I know not.
- 10 To the tenth cross interrogatory he says; I have frequently seen the machine - and seen it in operation. I have worked for the plaintiff and led a horse to drag it.
- 11 To the eleventh cross interrogatory he says; The only resemblance I know of is in the shape of the cutting iron - I don't know what is the most essential part of the machine.
- 12 To the twelfth cross interrogatory he says; I have had no such experience or means of acquiring knowledge.
- 13 To the thirteenth cross interrogatory he says; I never have.
- 14 To the fourteenth cross interrogatory he says; I never have.
- 15 To the fifteenth cross interrogatory he says; I have none.
- 16 To the sixteenth cross interrogatory he says; I know not.
17. 18. 19 To the seventeenth, eighteenth and nineteenth cross interrogatories he says; I know not.

William Richardson

United States of America. District of Massachusetts ss. City of
Boston, November the thirteenth, sixteenth, seventeenth, twentieth,
twenty first and twenty third. A.D. 1840.

On these dates
personally appeared before me, the aforesaid deponents, and being
by me severally examined, cautioned and sworn to tell the truth,
the whole truth and nothing but the truth, they severally gave
the foregoing depositions and subscribed the same, the ~~deposition~~
deposition of each deponent having been reduced to writing
by me in his presence. These depositions were taken by virtue
of the commission hereto annexed and to be used in the
case therein mentioned

Geo. S. Hillard
Commissioner &c &c &c

Commissioner's fees \$ 20 00
Deponents' do " 10 00

Weymouth 1840 by Stone & Co

Depositions of
James B. Reed & others
for Affd.

Dec 10th 1840

Adm'd of Court
in Court

F. W. McK.

I Nathaniel J. Wyeth, of Cambridge in the
District of Massachusetts, gentleman, make oath and
^{to the best of my knowledge and belief, as follows:}
that I am the original ^{inventor} patentee of a certain new
useful improvement in the manner of cutting ice, to-
gether with the machinery or apparatus therefor, as
described in the original Letters Patent, bearing
date the eighteenth day of March, in the year eighteen
hundred and twenty nine. Here with exhibited; -
^{and that the same was never before known or used in any other country;}
that I have never parted with any portion of my
interest in said Patent to any person or persons
except to Frederic Tudor of Boston in said District,
by my deed bearing date the ninth day of February
eighteen hundred and thirty two. Here with exhibited,
and that no persons except the said Tudor and
myself, or persons licensed by us, or one of us,
have any lawful authority to use and enjoy
the subject matter of said patent; that Leonard
Stone, and Samuel Barnard, both of Watertown,
in the said District, yeomen, and George Stearns
of West Cambridge, in said District, yeomen,
acting together as partners in the ice cutting
business, and divers other persons employed
by them, but at present to me unknown,
have heretofore frequently used and threaten
to continue to use in the said business for the
profit and advantage of the said Leonard

Stone & Company, the most material parts of the
said improvement without any license or author-
ity therefore either from me or from said Tuder; that
both said Tuder and myself, or one of us, are
and for many years have been constantly using
the said patented improvement, for the said business,
under that the machinery & apparatus employed by
the said Leonard Stone & Company, and their mode
of using the same, are a manifest infringement
upon the rights of the said proprietors of said
Patent, and greatly injurious to them in their
business.

Nathl. Wyeth

Suffolk Co. Boston, Dec. 31. 1839. Then personally appeared
the above named Nathaniel J. Wyeth, and made
oath to the truth of the foregoing affidavit by him
Subscribed Before me

W. H. Sanders,

Justice of the Peace.

City of Massachusetts Jan^y 10. 1840

Sworn to before me Enoch Loring
Commissioner

I the said Nathaniel J. Wyeth further depose & say,
that I sailed in the month of March eighteen hundred and
thirty two in the Brig Glean, from Boston for Baltimore,
and did not return till the Autumn of eighteen hun-
dred and thirty three; that soon after my return
I left the country again and did not return to Bos-
ton or its vicinity till the fall of eighteen hundred
and thirty six. My expectation and intention was
when I went away never to return for perma-
nent residence. Previous to my going away I
was shown a machine for cutting ice in Fresh Pond
in use by Ebenezer ^{and Benjamin} Hedman, and I gave ~~him~~
^{to me & them} notice that if they did not desist from using it I
should cause a suit to be commenced for infringe-
ment of my Patent, and after consultation
they did desist. I do not recollect ever seeing
any other machine in use before I left the
country except those used under me. While
I was at home however in the intervals between
my two voyages I saw in the office of the late
Andrew Dunlap Esq. either a machine, or a
model of a machine for cutting ice, which I
was informed Mr. Abiel Wyeth intended to
get a Patent for. I gave notice that it was
an infringement of my Patent, and in conse-
quence understood that Mr. Abiel Wyeth's inten-
ded application was abandoned. I never knew
of any other attempt to evade my Patent until the
winter of eighteen hundred and thirty six & thirty seven.

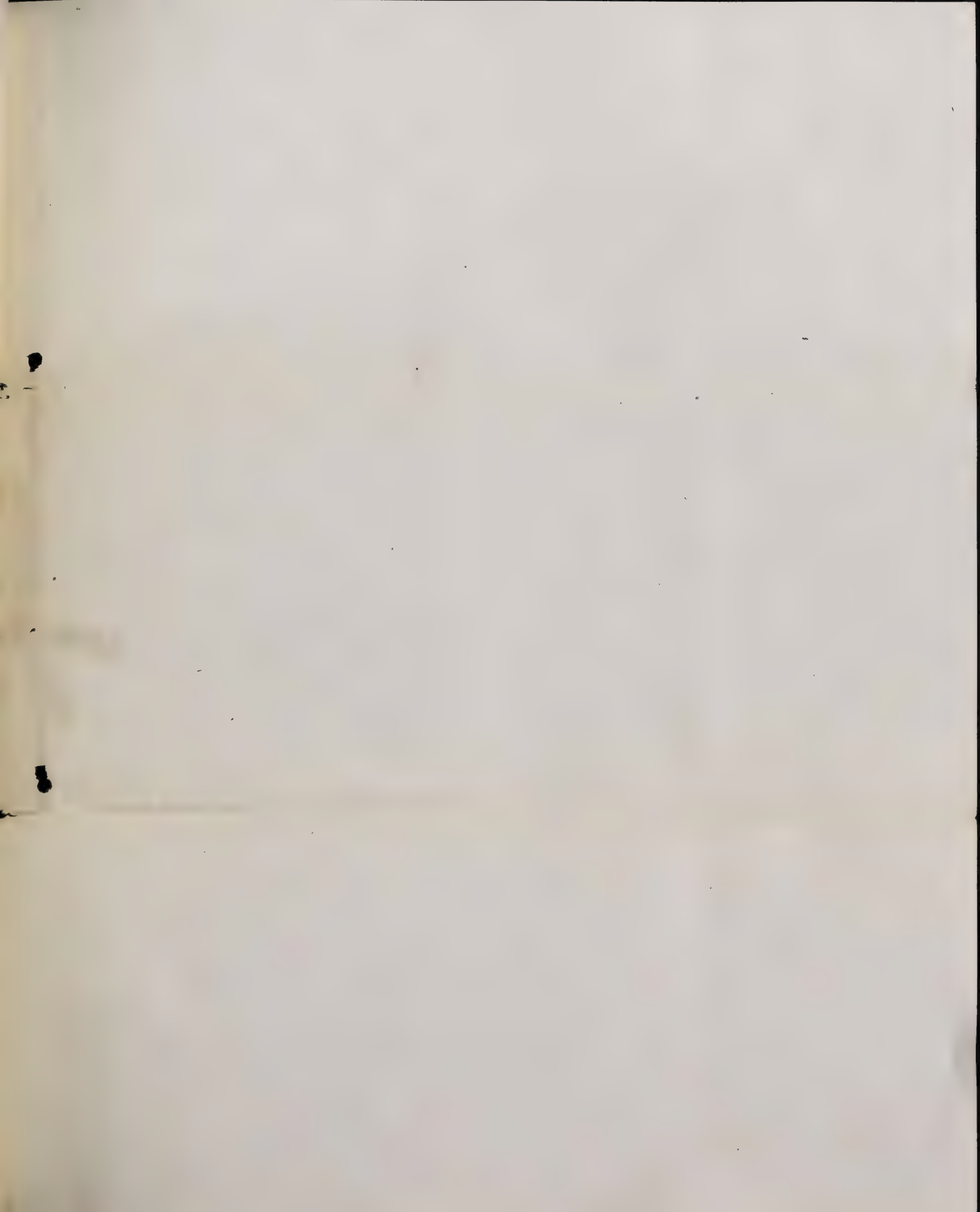
and long before the winter of eighteen hundred and thirty six, however,
Several years ago, I had a conversation with Mr. Leonard
Stone, one of the Defendants, respecting my Patent for cutting
ice; He suggested a ~~machine~~ doubt in his mind
whether I could hold such a Patent and enforce it,
and described a machine which he could make
and which he thought would avoid my Patent;
I told him that it would be in principle the same
as mine, and resemble it in so many points
that it would be a mere evasion, and that I should
~~consider it~~ ^{consider it} an infringement. My conveyance to Mr. Under
was in February eighteen hundred and thirty two, in
which I reserved a right to use the machine myself.
This right being about to leave the country, I never
expected to exercise here. Previous to that time I
had had several conversations with George Herms
one of the Defendants, respecting my Patent, and
always asserted my exclusive right under it.
After my return in eighteen hundred and thirty six
I had a conversation with him, in which I infor-
med him ^{as I explained} of my conveyance to Mr. Under, &
that I had no longer ^{any interest in the Patent} ^{of any consequence}
^{except in violation of my right to use the machine}
But I never stated to him in any conversation that
I considered the Patent of no consequence, or
that I had no objection to his or others use of the
ice cutter now complained of, or any thing to that
effect. I was not at that time engaged in the ice
business at all, and have not been since except
under Mr. Under, so that my personal interest has
not been and is not affected by the infringement.
But I have never directly or indirectly, licensed
the use of the machine complained of, or any
similar thereto. ^{except by the assignment of my right to Mr. Under}
I have on the contrary uni-
formly insisted on my ^{exclusive} right; of which both

Mr. H. J. May who
is Mr. Under's

Stearns & Stone, two of the defendants, have
had personal notice from me in the com-
plaints aforesaid. I have also repeatedly told
James B. Read, that the machine used by him
which is similar to that used by Stone & Company,
was an invasion of my Patent, and that it
could not stand an instant in a suit.

I further state that when I sent to borrow the
ice cutter now in Court of the pattern used by de-
fendants, a few days only before the filing
of this bill, I was informed that it had been
already borrowed by one of the defendants
as a copy ^{as I had the Smith house to make another} & that he was going to use it. This was the first
particular notice which I had this year of any
intention of the defendants to cut ice this season.
Before that I had no ground to expect it unless as
matter of inference from what they had done in
former seasons, for three or four years back. The
business of cutting ice has grown very much
within the three or four years last past. There
has been a constant increase of ice cutters & of
the quantity cut by the instrument complained
of. It is only recently that there has been much
cutting of ice for foreign shipment except
by Mr. Mow, with or for whom, I have acted.
District of Massachusetts
I cut 10 10400 soon to begin
me E. W. Loring
Complainant

Nathl. J. M. with



Original: 1871-1872

United States of America.

MASSACHUSETTS

DISTRICT.....SS.

THE Circuit Court of the
United States, within and for the
Massachusetts District

TO

George L. Hillard
Charles Sumner,
George D. Curtis

Edward E. Loring Esq. or either of them

KNOW YE, That, reposing confidence in your wisdom, prudence and
fidelity, we have appointed, and by these presents do authorize and empower you
to take the answers to the interrogatories hereunto annexed of

Daniel Readville,

Lincoln Borden,

George Danacott

Attorneys on behalf of
the Plaintiffs.

to be used in a certain cause now pending in said Court, wherein

M. J. Pratt et al.

are Defendants

vs.

L. Stone & al. Esq.

And to this end, at certain days to be by you appointed for that purpose, to
cause said witnesses, as aforesaid, to be brought before you, and each witness, while
present before you, to examine carefully on oath touching the premises. And when
you shall have taken the examination as aforesaid, to reduce or cause the same to be
reduced to writing, and to be subscribed by each of said witnesses in your presence.
And the same, so taken and subscribed, to return, together with this COMMISSION and
your doings herein enclosed, sealed and directed to the Circuit Court aforesaid,

~~next~~ ^{now} to be holden at Boston, on the ~~day of~~
~~next~~ to be returned as soon as the same shall have
been executed.

In testimony Whereof, we have caused the seal of the said Circuit
Court to be hereunto affixed.

Witness, the Honourable Roger B. Taney, at Boston,
this 21st day of December in the year of our Lord
one thousand eight hundred and forty

James Barrett CLERK.

N. B. You shall not, except by the consent of the parties in writing, permit either party to attend at the taking of the
deposition, either himself, or by any attorney or agent, nor to communicate by interrogatories or suggestions with the deponent
whilst giving deposition in answer to the interrogatories annexed to this commission. And you shall take such deposition
in a place separate and apart from all other persons, and permit no person to be present during such examination, except the
deponent and yourself, and such disinterested person [if any] as you may think fit to appoint as a clerk, to assist you in reduc-
ing the deposition to writing. And you shall put the several interrogatories and cross-interrogatories to the deponent in their
order, and take the answer of the deponent to each, fully and clearly.

Mass. S.
In Chancery }

U. S. Circuit Court Dist Circuit

N. S. Wyeth et al. }

vs.

L. Stone et al. }

Interrogatories to be proposed on the
behalf of the Plaintiffs in the above Cause to
Daniel Reddwell, Simon Borden & George Dana
cott, Witnesses, to be produced and examined in
the above entitled Cause.

1. What is your Profession, occupation or office?
and how long have you professed, practised or held
the same? and where do you reside?

2. Whether or not you have a practical or theoretic
cal Knowledge of Machines, and Machinery? If
yes, how was such Knowledge acquired?

3. Have you ever seen and examined Wyeth's
Ice-cutter, or the Machine commonly used by
Borden & Wyeth to cut Ice on Fresh Pond, or
any Model of it? If yes, when? and
where? If nay, please examine the same,

- now in the possession of the Commissioners.
4. Have you ever seen the machine commonly used by the off shore & others to cut ice on North Pond, or a model of it? If yes, when & where? If not, please examine the same now in the possession of the Commissioners?
5. What are the precise differences, and what the precise agreements between the said two ice-cutters, viz^t. Wrath's and that used by the Defendants?
6. Whether or not the differences between said two machines are substantial differences, or only formal ones, or how otherwise?
- [Objected to as leading and otherwise objectionable. E. J. Bigelow.]
7. Whether or not in your opinion, the said two machines operate in the same or a similar manner, and produce the same or similar results, upon the same principles, or how otherwise? [Objected to as leading & otherwise objectionable E. J. Bigelow.]
8. Have you ever seen and examined a Carpenter's Mough? If not, please to examine the one in the possession of the Commissioners.
9. What are the differences between said Wrath's ice-cutter, and the Carpenter's Mough?
10. Whether or not are said differences substantial

differences, or only formal ones, or how otherwise?

[objected to as leading E. P. Bigelow.]

11. What are the Differences between the Ice-cutter used by the Defendants and the common Palmer's Mough?

[objected to as before, E. P. Bigelow]

State whether or not said Differences are substantial Differences, or only formal ones, or how otherwise

12. Whether or not either the common Carpenter's Mough, or the common Palmer's Mough could be successfully applied to the cutting out of square blocks from a frozen Pond, or other large surface of Ice? [objected to as before E. P. Bigelow.]

13. What is the most essential part of Wrath's Ice-cutter? and what the most essential part of the Ice-cutter used by Defendants? and how far and in what material Respects do such essential parts of said respective Ice-cutters differ or agree?

14. 182. What means is the Carpenter's Mough

guided or governed as to the Direction of the first cut or groove made by it when in motion, and by what means is it guided or governed, as to the Direction and Parallelism of any subsequent cut or groove?

15. By what means is Wyeth's cutter guided or governed as to the Direction of the first cut or groove made by it when in motion, and by what means is it guided or governed as to the Direction and Parallelism of subsequent cuts or grooves?

16. By what means is the ice-cutter used by Defendants guided or governed as to the Direction of the first cut or groove made by it when in motion? and by what means is it guided or governed as to the Direction and Parallelism of subsequent cuts or grooves?

17. Whether or not a succession of cutting edges of gradually decreasing widths, and at gradually increasing depths is material to the Effect produced by Wyeth's ice-cutter? And whether or not the arrangement of cutting edges in the ice-cutter used by Defendants is similar, or how otherwise? [Objected to

as leading, and for other Reasons & D. Biglows.]

18. If you know of any other matter or thing which will be of Benefit to the Plaintiffs in the Trial of this Cause, please declare the same as fully, as if thereto particularly interrogated.

{ Lawyers & English,
Solicitors for Plaintiffs

Cross-Interrogatories

to be proposed to said Daniel Readwall, Simeon Borden and George Danacott, in behalf of said Defendants.

1. Where did you first see a Machine for cutting Ice, and where? Where was it? How was it made? Describe it exactly and minutely?

2. Have you ever seen a Machine for cutting Ice in actual operation? If ~~yes~~, where? When? and where was it? Describe particularly and minutely the manner in which it was used and operated?

3. If you say you have never seen an Ice-cutter, or a machine for cutting Ice in actual operation and use, please state what means you have of forming and giving any opinion about said machine or cutter, - about the principles upon which it is made and operated, or about the Results which it produces, either by itself or as compared with other machines, or tools? And whether the opinion which you may have given about them can be relied upon? And how, and why, and wherein it can be relied upon?

4. Is there any thing new or before unknown in the Ice-cutter or machine for cutting Ice? If so, state what there is in it that is new and not before known? or is it merely the application of an old mode of operating to a new object, or of cutting Ice?

5. Does not the Carpenters Plane (enquired about in the Plaintiffs Interrogatories) cut grooves in Timbers and Boards? and is there not a Gage applied to it for the purpose of directing and making parallel

Grooves?

6. Is not a Carpenter's Plane used by Mechanics for the purpose of cutting grooves in boards and timber? - and is there not a Gauge or Regulator always affixed to it to regulate the Parallelism of the cuts or Grooves, and to cut the first Groove straight?

7. Is not a Machine for cutting Ice, such as is used by the Saperdants, (Please now to look at the Model or the Machine in the Hands of the Commissioner) made and used for the purpose of cutting Grooves in Ice? and is there not affixed to said Cutter a Gauge or Regulator to direct and regulate the Parallelism of the Grooves and to cause the first Groove made to be cut straight?

8. Please now to say whether the Machine for cutting Ice is not the application of a known mode of operating to a new object - the cutting of Ice, or how otherwise?

9. Is said Ice-cutter any thing more or other than a Carpenter's Plough on a large scale, and for the purpose of cutting Ice? If yes, state wherein it differs.
10. Is there any new Principle, not before known and used, involved in the making or mode of using said Ice-cutter? If yes, state what it is?
11. Is said Ice-cutter of said Defendants any thing but a new Use of old Principles, and an old Tool or Implement?
12. Does not said Ice-cutter cut the Grooves in Ice in the same manner as the Carpenter's Plough cuts Grooves in boards? And is not the Edge to the Ice-cutter and to the Plough affixed and used in the same or similar manner, and for the same purpose, to wit: - in order to direct and govern the Parallelism of the Grooves, and to cut the first Groove straight?
13. Whether or not you have ever seen a Carpenter's Plough made with more than one

cutting point? If yes, describe such a Carpenter's Plough accurately, and state how the cutting points were placed?

14. If you give it as your opinion that there is a difference or differences between a Carpenter's Plough and said sea-cutters, will you state whether you mean that there is any other difference or differences than arises for the different purposes, and uses to which they are respectively applied?

15. Is there any difference between said sea-cutters and said Carpenter's Plough in the principles upon which they are made and used? How are the grooves made by the sea-cutter cut differently from those made by the Plough? Be particular.

16. If you know of any other matter or thing which may benefit said 5th, please state the same as fully as if you were particularly interested thereto.

at test. James Bennett } Sec. Peter Bigelow
Solicitor for Defendants
Clerk.

- 1 To the first interrogatory he says: I am an engineer, and have been so for twenty years. I reside in Boston.
- 2 To the second interrogatory he says: I have a theoretical and practical knowledge of ~~machines and machinery~~ ^{machines, and machinery} derived from study and from practice.
- 3 To the third interrogatory he says: I have seen it. I saw it in the office of Messrs. Gardiner and English, about five or six weeks ago.
- 4 To the fourth interrogatory he says: I have seen the machine. I saw it at the same time and place.
- 5 To the fifth interrogatory he says: One has two sets of cutters, and the other, ~~two sets~~ ^{one set} and a guide. The cutters ^{in points} are precisely alike. There is a difference in the manner of guiding, as appears to me from inspection.
- 6 To the sixth interrogatory he says: The differences are more in form than in substance.
- 7 To the seventh interrogatory he says: They do, in my opinion.
- 8 To the eighth interrogatory he says: I have seen and examined one.
- 9 To the ninth interrogatory he says: Wyeth's machine has a succession of cutters, the carpenter's plough, only one. The cutting chisel in the plough is moveable; in the machine, it is fixed. In the plough, the guide is moveable, and may be set to any width; in Wyeth's, it is fixed. In the carpenter's plough, the guide comes below the cutter. In Wyeth's machine, the cutting points are in the same plane. It is essential to the use of the carpenter's plough, that this guide shall be below the plane of the cutter.
- 10 To the tenth interrogatory he says: I think they are substantial.
- 11 To the eleventh interrogatory he says: I see no resemblance except in the handle. There are substantial differences between them.
- 12 To the twelfth interrogatory he says: In my opinion, they would not answer the purpose.
- 13 To the thirteenth interrogatory he says: The cutting points are the most essential parts of both machines. The machines are alike in the cutting points.
- 14 To the fourteenth interrogatory he says: By the guide, which drops below the plane of the cutter, and is pressed against the side of the board. The same guide directs the subsequent cuts.
- 15 To the fifteenth interrogatory he says: As I never examined it while in operation, I cannot say to the first cut. In the second cut, ~~the~~ ^{the} cutters ^{infer} guide themselves, as I
- 16 To the sixteenth interrogatory he says: By inspection, I should judge that it was guided by the handle. I never saw it in use.
- 17 To the seventeenth interrogatory he says: I should think such a succession of cutting edges was material. In the arrangement of the cutting edges, the machines are similar.

Geo. Darracott 16 To the eighteenth interrogatory he says: I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says: The only machines I ever saw were the two I saw in Mr. Gardner's office, a few weeks since, and which I believe are the same with those now in the possession of the commission.
- 2 To the second cross interrogatory he says: I never saw one in operation near enough to inspect it, or learn any thing about it.
- 3 To the third cross interrogatory he says: By a comparison of one with the other and drawing such inferences as my knowledge of mechanics enabled me to do. I can't say whether my opinion can be relied upon or not. That for others to judge.
- 4 To the fourth ^{cross} interrogatory he says: The succession of cutters is new. I think it a new combination of powers, never before used.
- 5 To the fifth cross interrogatory he says: Yes.
- 6 To the sixth cross interrogatory he says: Yes.
- 7 To the seventh cross interrogatory he says: Such machine is made for the purposes of cutting grooves in ice. I do not see how the guide can cause the first groove to be cut straight.
- 8 To the eighth cross interrogatory he says: I don't think it is
- 9 To the ninth cross interrogatory he says: I think it ^{differs from the} ~~carpenter's~~ the carpenter's plough, as I have before stated.
- 10 To the tenth cross interrogatory he says: As I have before stated, the machine differs from any thing I have before known. Strictly speaking, there are no new principles in mechanics.
- 11 To the eleventh cross interrogatory he says: It is a new use of old principles, as is the case with almost all machines.
- 12 To the twelfth cross interrogatory he says: I do not see how the guide of the ice cutter can regulate the direction of the first cut. After the first groove is cut, the guide regulates the direction of the second cut, like the gauge of the carpenter's plough.
- 13 To the thirteenth cross interrogatory he says: I never have
- 14 To the fourteenth cross interrogatory he says: I have already answered this question as fully as I am able to.
- 15 To the fifteenth cross interrogatory he says: I think there is a ^{small} difference in the structure of the two implements as well as in the purposes to which they are to be applied, as will be evident to any one who looks at them. Hardly any mechanical principle is involved in the construction of either of them. They are both quite simple. The grooves they cut are alike.
- 16 To the sixteenth cross interrogatory he says: I know not.

Geo Darracott

- To the first interrogatory he says: I am an engineer. I have been so for twenty five years. I reside in Cambridge. I am Rumford Professor in Harvard University.
- 2 To the second interrogatory he says: I have a practical and theoretical knowledge of machines and machinery, acquired by five and twenty years study and practice.
- 3 To the third interrogatory he says: I have seen it. I saw it at Mr. Wyeth's house some six weeks ago.
- 4 To the fourth interrogatory he says: I saw it at the same time and place. I saw Wyeth's.
- 5 To the fifth interrogatory he says: The defendants' cutter has one row of cutters, and Wyeth's has four rows. In the defendants', the guide is separate and distinct from the cutters, in Wyeth's, the plane which forms one row of cutters serves as a guide for the other row. There is also a difference in the handles. In the construction and operation of the cutting points, they resemble each other, each row of Wyeth's cutters being precisely similar to the cutters in the defendants' machine.
- 6 To the sixth interrogatory he says: I should not regard them substantial differences so far as regards the principles or character of the machines, as both machines appear to possess the same principles or character.
- 7 To the seventh interrogatory he says: I think they do.
- 8 To the eighth interrogatory he says: I have often seen and examined them.
- 9 To the ninth interrogatory he says: In the greater number of cutting edges ~~is not the same~~, and in the instrument or part which guides the cutters ~~is not the same~~, also in the chisel in the carpenter's plane being moveable.
- 10 To the tenth interrogatory he says: The two first differences are substantial ones.
- 11 To the eleventh interrogatory he says: There is no resemblance ~~but~~ or almost none, except in the handles, and of course, these differences are substantial.
- 12 To the twelfth interrogatory he says: They could not, advantageously.
- 13 To the thirteenth interrogatory he says: The cutters, and the guides, are the most essential parts of the two machines. They resemble each other in the cutters, and the differences in the guides are merely formal.
- 14 To the fourteenth interrogatory he says: In its first and subsequent cuts or grooves, it is guided by the rule or guide, placed by the side of the cutter, and which is pressed against the side of the plank or board.
- 15 To the fifteenth interrogatory he says: There is no part which appears intended to guide it in its first cut, but in every subsequent cut, a row of cutters entering the groove first made, guide the machine.

- 16 To the sixteenth interrogatory he says: There does not appear to be any part to guide it in its first cut, but in every subsequent cut it is guided by a rule or gauge entering the cut first made.
- 17 To the seventeenth interrogatory he says; I should not think that the gradually decreasing widths were essential, but the gradually increasing depths are undoubtedly essential; in the latter respect, the machines are alike.
- 18 To the eighteenth interrogatory he says: I know not.

Answers to cross interrogatories.

- 1 To the first cross interrogatory he says; On the banks on Fresh Pond about two years ago. It resembled Wyeth's, so far as I recollect. I don't know whose it was.
- 2 To the second cross interrogatory he says; I never have.
- 3 To the third cross interrogatory he says; I have answered from my knowledge of the operation of machines used in the arts and from the actual inspection of the machines in question. I think my opinion may be relied upon as far as any opinion, which, of course, is not the observation of a fact.
- 4 To the fourth cross interrogatory he says; There is, so far as my knowledge extends, something new in the ice-cutter, in this; in the arrangement of the cutters in a row or ~~rows~~ rows, each cutter angled at a gradually increasing depth, and in the apparatus for guiding a row of cutters thus arranged.
- 5 To the fifth cross interrogatory he says: Yes.
- 6 To the sixth cross interrogatory he says: Yes.
- 7 To the seventh cross interrogatory he says; The machine is made for the purpose of cutting grooves in ice. A gauge or regulator is added to regulate the parallelism of the grooves subsequent to the first, but not to make the first one straight, unless some straight body be laid upon the ice against which it can act.
- 8 To the eighth cross interrogatory he says; I have already answered this question in my reply to the fourth cross interrogatory.
- 9 To the ninth cross interrogatory he says; I have already answered this question in my answers to the ninth direct and fourth cross interrogatory.
- 10 To the tenth cross interrogatory he says; I should think there was nothing new in principle, but the ice-cutter of Wyeth appears to me a new combination.
- 11 To the eleventh cross interrogatory he says; It may be considered as a new use of old principles, because all the parts have been used before, either separately or in other machines, but I consider this machine as a new combination of them and therefore not an old tool or implement, excepting so far as Wyeth's has preceded it.

- 12 To the twelfth cross interrogatory he says: Each edge of each cutter in the ice cutter operates in the same manner upon the ice as the single edge of the carpenter's plough does upon the board. The quage is not fixed in a similar manner and does not make the first groove straight.
- 13 To the thirteenth cross interrogatory he says: I never have.
- 14 To the fourteenth cross interrogatory he says: The differences are not greater but appear to me precisely such as ^{seem} ~~appear~~ to me to be required to operate effectually in the one case upon ice cutting it into blocks and in the other, to form grooves in boards.
- 15 To the fifteenth cross interrogatory he says: The first part of this question I have already answered. The essential difference in the cutting of the grooves is in the greater number of cutters operating at the same time and in the mode of guiding.
- 16 To the sixteenth cross interrogatory he says: I know not.

Daniel Treadwell

Answers of Simson Borden to interrogatories on behalf of the Plaintiffs

- 1 To the first interrogatory he says: I am an engineer, and have been so for twenty years. I reside in Boston.
- 2 To the second interrogatory he says: I have a practical and theoretical knowledge of machines and machinery. I have built machines, and have had the charge and direction of machines and machinery, and have also studied the subject in books.
- 3 To the third interrogatory he says: I saw it in Mr. Gardiner's office a few weeks since.
- 4 To the fourth interrogatory he says: I saw it at the same time and place that I saw Wyeth's.
- 5 To the fifth interrogatory he says: They agree in the cutting apparatus, that is in the points of cutting, and in the action of those points. They differ in the guide boards and handles. Wyeth's also has four sets of cutters, and the defendants', only one.
- 6 To the sixth interrogatory he says: I should call them only formal.
- 7 To the seventh interrogatory he says: My opinion is that they do.
- 8 To the eighth interrogatory he says: I have many hundreds.
- 9 To the ninth interrogatory he says: They are so entirely distinct, that I could not explain the differences without a drawing or models.
- 10 To the tenth interrogatory he says: I have answered this in my reply to the ninth interrogatory.
- 11 To the eleventh interrogatory he says: There is no resemblance between them except in the handles.
- 12 To the twelfth interrogatory he says: They could not, without modifications.
- 13 To the thirteenth interrogatory he says: The cutting apparatus is the

- only essential part of both machines. I consider them alike in their operation of cutting and in the construction of their cutting apparatus.
- 14 To the fourteenth interrogatory he says; In both instances, it is governed by the gauge or guide applied to the edge of the board.
 - 15 To the fifteenth interrogatory he says; I have never seen it in operation and cannot say how it is guided as to the direction of the first groove. In the second groove, it is guided by passing one of the cutters into one of the grooves made by the first cut.
 - 16 To the sixteenth interrogatory he says; As to the first cut, I cannot say. The second cut is guided by the guide passing into the groove first cut.
 - 17 To the seventeenth interrogatory he says; I presume that such an arrangement of cutting edges is essential to the facility of the operation. It could not ~~do~~ do its work so well or so speedily without it. In this respect, the machines are similar.
 - 18 To the eighteenth interrogatory he says; I know not.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says; The only ones I ever saw were those I saw in Mr. Gardner's office a few weeks since and which, I believe, are those now in the Commissioner's possession.
- 2 To the second cross interrogatory he says; I never have.
- 3 To the third cross interrogatory he says; From my knowledge of the nature and operation of machinery and from inspection of the machines in question, I can only say that I think I understand the operation of the machines and that my opinion may be relied upon.
- 4 To the fourth cross interrogatory he says; The arrangement of the cutting points and the application of them in that manner to the cutting of ice is new to me.
- 5 To the fifth cross interrogatory he says; Yes.
- 6 To the sixth cross interrogatory he says; Yes.
- 7 To the seventh cross interrogatory he says; I presume it is made for cutting grooves in ice. The guide regulates the parallelism of the second groove or cut, but does not cause the first one to be cut straight.
- 8 To the eighth cross interrogatory he says; I know of no other mode of operating which precisely resembles it.
- 9 To the ninth cross interrogatory he says; I see no resemblance between them, as I have before stated.
- 10 To the tenth cross interrogatory he says; I should think there was in the formation of the teeth or cutters.
- 11 To the eleventh cross interrogatory he says; I should think it was new. I have never seen any machine like it, except that ^{of the first}

- 12 To the twelfth cross interrogatory he says: It cuts grooves in a similar manner, but the gauge is not fixed or applied in the same manner
- 13 To the thirteenth cross interrogatory he says: I never have.
- 14 To the fourteenth cross interrogatory he says: I have said before that I see no resemblance between them.
- 15 To the fifteenth cross interrogatory he says: I see no resemblance between said cutters and the carpenter's plough. An instrument, like the carpenter's plough and without its guide or gauge, would cut a groove similar to that of the ice cutters
- 16 To the sixteenth cross interrogatory he says: I know not.

Simcon Borden

United - State of America - District of Massachusetts
Boston, the fourth, eighth and ninth days of December A.D.
1840

On these days, personally appeared before me, the deponent
(whose names are above written and being by me severally
carefully examined, cautioned and sworn to tell the truth
whole truth and nothing but the truth, they gave the
foregoing depositions and made oath to the same, each deposition
being reduced to writing by me, and each being subscribed
by the deponent in my presence. These depositions are
taken by virtue of the commission hereto annexed and to be
used in the cause therein mentioned)

Geo. J. Hillard
Commissioner &c &c &c

Commissioner's fee \$ 10 00
deponents do " 3.75

Weymouth as Stone shed

Depositions of
George Sammis, Daniel
Treadwell, Simeon
Borden & for P. Ws.

December 18th 1840

Opened & Certified
in Court.
F. B. Clark

United States of America.

MASSACHUSETTS DISTRICT.....SS.

THE *Circuit* Court of the
United States, within and for the
Massachusetts District

TO *George S. Hillard, George
D. Curtis & Edward G. Loring of
Boston in said District, Esquires, or to
either of them*

KNOW YE, That, reposing confidence in your wisdom, prudence and
fidelity, we have appointed, and by these presents do authorize and empower you
to take the answers to the interrogatories hereunto annexed of *Miss Tufts,*
a witness to be produced & examined by
the Plaintiffs

to be used in a certain cause now pending in said Court, wherein

N. J. Wyeth et al are Plaintiffs in Eq.
as
L. Stone et al

And to this end, at certain days to be by you appointed for that purpose, to
cause said witnesses, as aforesaid, to be brought before you, and each witness, while
present before you, to examine carefully on oath touching the premises. And when
you shall have taken the examination as aforesaid, to reduce or cause the same to be
reduced to writing, and to be subscribed by each of said witnesses in your presence.
And the same, so taken and subscribed, to return, together with this Commission and
your doings herein enclosed, sealed and directed to the *Circuit* Court aforesaid,
next to be holden at Boston, on the *fifteenth* day of *May*
next.

In testimony Whereof, we have caused the seal of the said *Circuit*
Court to be hereunto affixed.

Witness, the Honourable *Roger B. Taney* at Boston,
this *tenth* day of *November* in the year of our Lord
one thousand eight hundred and *Forty*

Francis Barrett CLERK.

N. B. You shall not, except by the consent of the parties in writing, permit either party to attend at the taking of the
deposition, either himself, or by any attorney or agent, nor to communicate by interrogatories or suggestions with the deponent
whilst giving deposition in answer to the interrogatories annexed to this commission. And you shall take such deposition
in a place separate and apart from all other persons, and permit no person to be present during such examination, except the
deponent and yourself, and such disinterested person [if any] as you may think fit to appoint as a clerk, to assist you in reduc-
ing the deposition to writing. And you shall put the several interrogatories and cross-interrogatories to the deponent in their
order, and take the answer of the deponent to each, fully and clearly.

1 2

U.S. Circuit Court, First Circuit.
Mass. ss: In Chancery,
N. J. Wyeth et al. vs. L. Howe et al.

Interrogatories to be proposed on behalf of the
Pltffs in the above Case to Otis Tufts, a
witness to be produced and examined by
Plaintiffs. —

1. What is your profession or occupation,
How long have you followed it, & where do
you reside, and in what branch of the Mechan-
arts have you been engaged?
2. Whether or not you have a knowledge of
Machines & Machinery, if yea, is such knowl-
edge practical or theoretical, or both, and
how was such knowledge acquired?
3. Have you ever seen and examined the
specification of N. J. Wyeth's patent for an
Ice Cutter, dated March 18th 1827, If yea,
when & where, and please examine the copy
thereof ~~now~~ shown to you, whether you have
ever seen said specification before or not.
4. Whether or not does the branch of the Mechan-
arts in which you are or have been engaged
and of which you have peculiar knowledge
comprehend the constructing of such machines
as said Ice Cutter, or those nearly resembling
it, or how otherwise? —

5. Whether or not the said Specification is so clear and exact, that you, or any, Mechanic of Ordinary Skill in the branch of the Mechanic, arts, which includes the making of such machines, could, from said Specification, construct said machines, or is said Specification so confused, deficient, & unintelligible that a Mechanic of Ordinary Skill in said branch could not construct said machine from said Specification, or how otherwise?

Gardiner & English
Solicitors for Plffs.

Cross Interrogatories to be proposed to
Plis Tufts, in behalf of the Defendants, in
the above case.

1. Have you ever made an Ice Cutter? if yes, when? for whom? and how was it made? Describe particularly the manner in which the machine was made, & how it would operate on the ice? Had it two cutters or one only? Had it a single cutter and a gag to regulate its movements & a pair of handles like a plough, or was it made without handles and covered over with boards?
2. Have you ever made a machine for cutting ice by the Specification contained in said letters Patent, following that only, and without, a model or any further direction? if May, how

are you able to swear that you could make an ice cutting machine by the directions contained in said Specification?

3. Have you seen an ice Cutter made according to said Specification, if yea, when did you first see it, where was it - who showed it, and described it to you, and how was it made. be particular in answering these several inquiries, and state also whether you saw said Ice Cutter before you read and examined said Specification, or at the same time?

4. If you say you saw said Ice Cutter before or at the same time you read and examined said Specification, how are you able to swear that you could construct an ice cutter by said Specification alone, without ever having seen or examined an ice cutter?

5. According to said Specification, which you will now please to read carefully before answering this question, what apparatus is necessary in order to cut ice into blocks?

Should you not suppose by reading said Specification, that in order to cut ice into blocks for the market, the saw, therein described was essential in addition to the cutter?

Do you not understand by the Specification that after the cutter has been used to cut a groove in the ice, that then in order to get the ice off into blocks, the saw must be used

to cut the grooves deeper? Do you understand by the Specification that the cutter alone will cut the ice into blocks? Must not the saw be used after the grooves are cut by the ~~ice~~ cutter in the ice? Are they or not described in said Specification as being both essential and necessary parts of the apparatus for cutting ice, and that one would not be effective or useful without the other; or how otherwise? -

Objected to as leading and on the ground that the witness cannot be permitted to testify as to the true construction of a written instrument ^{otherwise} to W. H. Gardner.

6. Will you look at the small Copper model in the hands of the Commission and carefully examine the same. After doing so, please state if the operation of a machine made like the model, in cutting ice would be the same or similar to the tool called a carpenter's plough, or grooving plane used on boards, or how otherwise?

Objected to as leading & otherwise. W. H. Gardner.

7. Do you know of any implement or tool now and long since in common use, which in its operation and effects is similar to, or the same with or in any manner resembles the mode of cutting ice by a machine made like the said model? If yes, state ~~what~~

what machine or tool or implement is similar to the same with or in any way resembles it, and wherein, and describe its mode of operation as compared with said ice cutter made after said Model or one made according to said Specification or both?

Objected to M. H. Gardiner.

8. State whether or not the grooves cut in the ice by said ice cutter or one made ^{like} said Model or according to said Specification, are made and cut in the same manner as grooves in boards are ^{cut and} made and cut or in a similar manner? if yes, state wherein the similarity consists if there be any. & describe as near as you can the precise difference if there be any, between cutting grooves in ice by said ice cutters, and the usual mode of cutting grooves in boards. —

Objected to M. H. Gardiner.

9. How are grooves cut in boards and timber? How are gullers or water troughs, usually or sometimes cut out and made. Describe minutely as you can the tool or tools or implements with which grooves and gullers and water troughs are cut in wood or timber & the mode of operation of said tool or tools or implements?

10. How are grooves cut in the ice by said ice cutter as described in said Specification or by one made like said Model, describe the operation as you understand it.

11 If there be any difference in the modes of cutting grooves in boards and timber and cutting them in ice by said ice cutter please to state wherein the difference consists.

12. Is there or not any real, substantial difference between the tool or implement used to cut grooves in boards and timber and the said ice cutters - If yea, state what that difference is. object to as leading W.H. Gardner

13. How is a Carpenters plough used and how operated? Is it or not ^{ever} made and used so as to be operated by any power other than the hand, Is, or not horse power, or steam power ever used to operate the same? or how otherwise? Describe the different modes in which said tool is operated and used.

14. By what power are grooves cut in boards? Describe all the different modes with which you are acquainted, by which the tools or implements are used, operated and driven for cutting grooves in boards. If any other power than that of the hand is used for this purpose, describe the different kinds and enumerate them carefully.

15. In the mode of cutting ice described in said specification is there or not anything new and not known before, if yea, what is there that is new & before unknown.

- 16 Is there or not in the ice cutter described in said Specification, and such as are used by plaintiffs or defendants, or both of them or in their mode of operation, any new principle in mechanics or machinery not before known and in use, if yes, State what new principle said ice cutters embrace or contain wherein it is new, & how you know or are able to say that, a new principle is involved in their operation or use.

- 17. Is or is not the mode of cutting ice, by machines similar to said model, or described in said Specification, anything more or other than an old and well known method of cutting grooves applied to the business of cutting ice, or how otherwise,? objected to as leading M.H.G.

- 18. In what if ^{you} anything does the novelty of principle in said ice cutter consist?

19 If you know of any matter or thing which may benefit the defendants, in the hearing of this case, please State the same as fully as if there particularly interrogated by

Geo Tyler Bigelow
Solicitor for Defendants.
E

Additional Interrogatories on behalf
of the 2^d Plffs, on the new Matter enquired of
in said ~~Cross~~ interrogatories.

1. If you shall answer defendant's 6th Cross
interrogatory in the Affirmative, State in
what the resemblances or agreements & in
what the differences between the Operation
of the Common Carpenter's plough & the defendant's
Ice cutter consist.
2. State how the Common Carpenter's plough
is guided as to the direction of the first cut
or groove made by it, when in motion, &
by what means it is guided or governed
as to the direction or parallelism of any
subsequent cut or groove?
3. If you shall answer the 5th 7th Cross
interrogatory in the Affirmative, State when
and where you first saw such an instrument
or tool as is therein Enquired about, other
than the Common Carpenter's plough?
Give the date & place as nearly as you
can. Who owned it, or possessed it? By
whom was it made? Did you see it used?
Where is it now? Who was present with you
when you saw it?
4. If in answer to the 5th 13th & 14th Cross
Interrogatories or either of them you shall

Say that you have seen a carpenter's plough or other instrument for cutting grooves in boards or timber, operated by any other than human power; please state particularly when and where you first saw such instrument, used? Describe the instrument particularly; if it, was, operated by horses state when & where, if by steam, state when & where & for what purpose & upon what material it was used? Who was present? Who owned or possessed said machine or instrument, & who made it, when and where was it made?

5. Could the common carpenter's plough without any change of form, be successfully applied to the cutting out of square blocks from a frozen pond or other large surface of ice? If yes, please describe particularly how it could be done, & how the tool could be governed and guided as to the first cut or groove & also as to the subsequent cuts, so as to preserve the parallelism of the grooves, and, if it could be so guided and governed, how many passages of the common carpenter's plough would be necessary to produce an equal effect with one passage of Wright's ice cutter?

Gardner & English
Solicitors for Plaintiff

A true copy Attest Francis Barrett Clerk

Answer of Otis Tufts to interrogatories on behalf of plaintiffs

- 1 To the first interrogatory he says: I am a machinist. I have been so for fourteen years. I live in Boston. I have been engaged in the manufacture of steam engines, printing presses and machinery in general.
- 2 To the second interrogatory he says: I have a theoretical & practical knowledge of ~~machines~~ and machinery, which has been acquired by the study of mechanics and the manufacture and use of machinery.
- 3 To the third interrogatory he says: I examined said specification at Boston the thirtieth day of November last, on which day it was shown to me by the commissioner.
- 4 To the fourth interrogatory he says: The ice-cutter is embraced by that class of machinery, with which I am most familiar.
- 5 To the fifth interrogatory he says: I could make a machine from the specification without any difficulty and think any man of ordinary skill would be able to do the same.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says: I have not.
- 2 To the second cross interrogatory he says: I have never made an ice-cutter. I answer as I have, because I deem the language of the specification sufficiently intelligible to enable me to do so.
- 3 To the third cross interrogatory he says: I have never seen one.
- 4 To the fourth cross interrogatory he says: I have not seen one.
- 5 To the fifth cross interrogatory he says: The apparatus described in the first part of the specification referred to, in connection with the iron bar with a flat end, described in the latter part of said specification, is that which is necessary to cut ice into blocks. I should not understand that, by the specification, after the cutter has been used to cut a groove in the ice, the saw must be used, in order to cut the ice apart, in order to get it off in blocks, the saw being used only for the purpose of cutting the outside groove through, leaving the square to be broken off by the iron bar. I should not suppose that the saw was essential, in addition to the cutter, it being used only for the purpose of cutting the outside groove through, leaving the square to be broken off by means of the iron bar. I do not understand that the saw is to be used as a matter of necessity, but as a convenience in commencing either side of the flat or area. I should infer from said specification, that after the commencement of the work on either side of the said area, the saw might be dispensed with, no other apparatus than the plough and cutters and bar being necessary to cut the ice

into blocks.

- 6 To the sixth ^{cross} interrogatory he says. Inasmuch as the one cuts a groove in boards or timbers, and the other, in ice, they are similar; yet in their operation, they differ essentially, inasmuch as in the carpenters' plough, a slight shaving is taken with one cutter, by manual power and that by pushing the plane forward by hand, and the other several cutters, each making a deep cut and operated by other than human power, thereby constituting some of the features, wherein it differs from the carpenters' plough.
- 7 To the seventh ^{cross} interrogatory he says: I know of nothing which bears a nearer resemblance than the carpenters' plough.
- 8 To the eighth ^{cross} interrogatory he says: I refer to my answer to the sixth ^{cross} interrogatory for answer to this one.
- 9 To the ninth ^{cross} interrogatory he says: I know of no other way of cutting grooves in timber than by the hand plough, or carpenters' plough, but if the business of cutting ~~grooves~~ troughs and gutters, would warrant it, it would be very easy to construct a set of revolving cutters, so as to accomplish it by steam, horse power &c, similar to the mode of grooving boards by steam, horsepower &c.
- 10 To the tenth ^{cross} interrogatory he says: By two sets of cutters situated parallel to each other and capable of being adjusted to any required distance from each other (for the purpose of cutting the squares to any given dimensions) the same being operated by horse power. In the model, there is one set of cutters, but they cut in ^{the same manner}.
- 11 To the eleventh ^{cross} interrogatory he says: one point of difference between the grooving of boards and the cutting of ice is that the plough would be pushed forward by hand in the one case, whereas the ice cutter would be drawn instead of pushed by manual or other power, in the other; and another point is that the ice cutter ^{described in the specification} consists of two sets of cutters, each answering the double purpose of cutting the ice and at the same time guiding each other in cutting parallel grooves, and I do not know of the carpenters' plough being used upon boards and timbers, in any form for a similar purpose.
- 12 To the twelfth ^{cross} interrogatory he says: For answer to this int. I refer to my answer to the ^{eleventh} ~~twelfth~~ ^{cross} int.
- 13 To the thirteenth ^{cross} interrogatory he says: It is used by ^{the} or manual power, and no other, to my knowledge. Boards are matched by steampower by revolving cutters, as differently arranged from the carpenters' plough as can be conceived.
- 14 To the fourteenth ^{cross} interrogatory he says. Grooves may be and, I presume, are cut in boards by any and all of the various powers practically applied to any other machinery, viz: steam, horse, wind or manual power.

- Otis T. Trafts
- 15 To the fifteenth cross interrogatory he says: "I cannot say that I exactly understand the term "augerling", but if I have drawn the right inference, I should think my reply to the 11th cross int. would be an appropriate answer to the one now proposed.
 - 16 To the sixteenth cross interrogatory he says: ~~I am only acquainted with the machine described in the specification. I do not know of any mechanical principle embraced in their operation which was before unknown, but it is the result of well established principles successfully applied to a useful purpose.~~
 - 17 To the seventeenth cross interrogatory he says: Yes, there is combined the addition of another set of cutters, for the purpose of cutting grooves parallel to each other, in both, a succession of cutting points.
 - 18 To the eighteenth cross interrogatory he says: I understand by the tenor of said specification that the combination of two sets of cutters situated parallel to and serving to guide each other together with the fact that the apparatus is operated by horse power, constitute the prominent novelties which characterize the invention, and also the succession of cutting edges, as I before stated.
 - 19 To the nineteenth cross interrogatory he says: I know not.

Answers to additional interrogatories on behalf of the plaintiffs:

- 1 To the first interrogatory he says: I have so done in my answer to said sixth cross interrogatory.
- 2 To the second interrogatory he says: Not being familiar with the operation of the Carpenter's plough, I am not prepared to state it precisely, but, if my recollection serves me right, it is guided by the edge of the board, in each subsequent as well as in the first cut.
- 3 To the third interrogatory he says: I refer to my answer to the 7th cross int.
- 4 To the fourth interrogatory he says: I have only ~~seen it~~ used by hand power.
- 5 To the fifth interrogatory he says: I think it could not.

Otis Trafts

United-States of America—
District of Massachusetts ss. City of Boston, the ninth
day of December A. D. 1840

On this date personally appeared
before me, the deponent whose name is above written, &

being by me duly examined, cautioned and sworn to tell the truth, the whole truth and nothing but the truth, he gave the foregoing deposition and subscribed the same, the same having been reduced to writing by me. This deposition is taken by virtue of the commission hereto annexed and to be used in the case therein mentioned

Geo. L. Hillard
Commissioner &c &c &c

Commissioner's fees \$ 6.00
Deponent's do " 1.25

Myself Charles Stone etc
Depositions of
Atty Genl for PA
December 10th 1884
Signed & Subscribed in
Court.
G. L. Hillard

United States of America.

MASSACHUSETTS DISTRICT.....SS.

Circuit
THE *District* Court of the
United States, within and for the
Massachusetts District

TO *George S. Hillard, George T. Curtis & Edward G. Loring, all of Boston Esquires, or to either of them*

KNOW YE, That, reposing confidence in your wisdom, prudence and fidelity, we have appointed, and by these presents do authorize and empower you to take the answers to the interrogatories hereunto annexed of *Dexter Pratt & John Barker*

to be used in a certain cause now pending in said Court, wherein

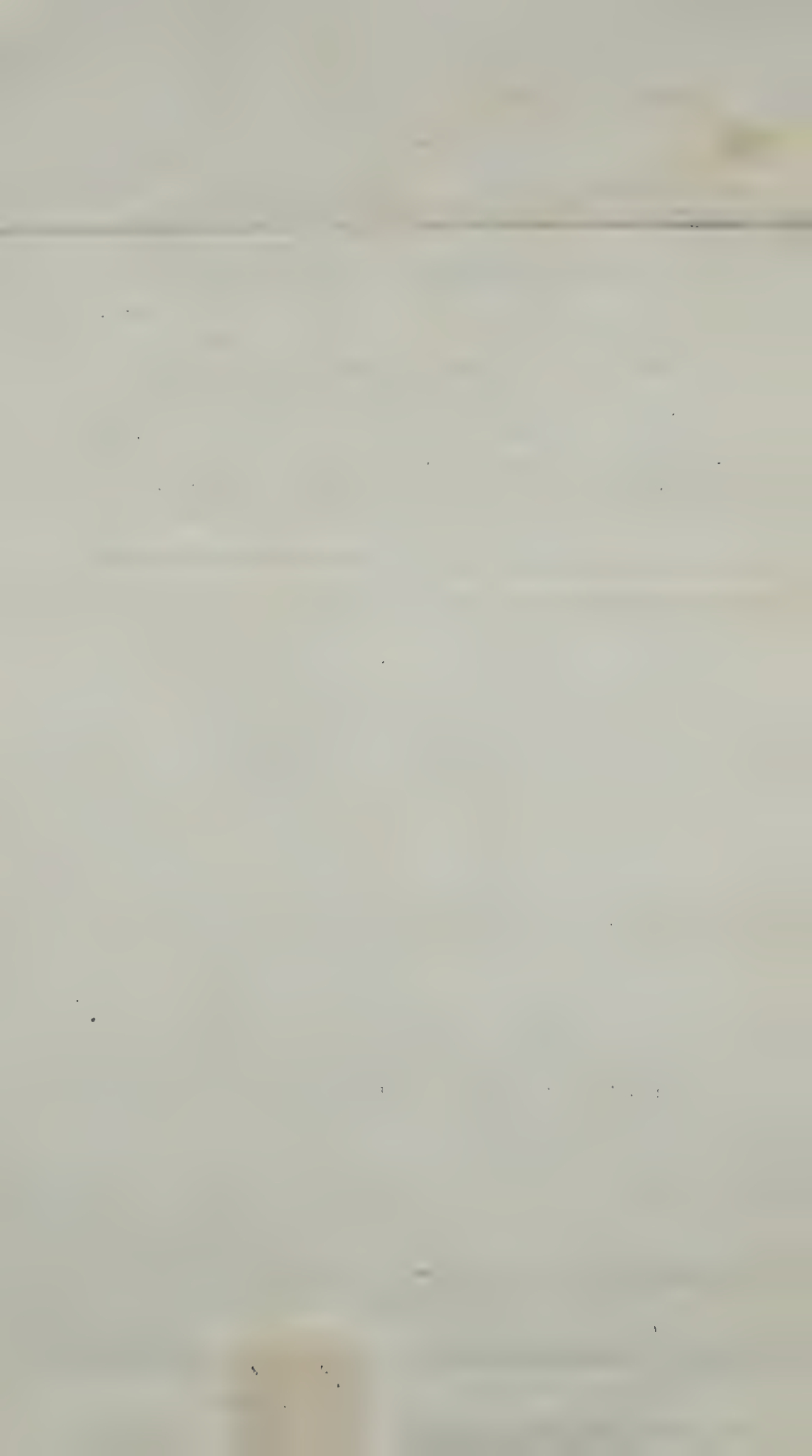
N. S. Wyeth et al are Plf. in Eq.
vs
Leonard Stone et al

And to this end, at certain days to be by you appointed for that purpose, to cause said witnesses, as aforesaid, to be brought before you, and each witness, while present before you, to examine carefully on oath touching the premises. And when you shall have taken the examination as aforesaid, to reduce or cause the same to be reduced to writing, and to be subscribed by each of said witnesses in your presence. And the same, so taken and subscribed, to return, together with this Commission and your doings herein enclosed, sealed and directed to the *Circuit* Court aforesaid, next to be holden at Boston, on the *Fifteenth* day of *October* next. *or as soon as the same shall have been executed*

In testimony Whereof, we have caused the seal of the said *Circuit* Court to be hereunto affixed.

Witness, the Honourable *Roger B. Taney* at Boston,
this *twentieth* day of *September* in the year of our Lord
one thousand eight hundred and *Forty*

Francis Bassett CLERK.



1
In Chancery.

2
U. S. Circuit Court. First Circuit.

Wyeth et al. vs. Stone et al

Interrogatories on behalf of Pltfs to
be propounded to Luther Hall & John
Burke, witnesses to be produced & exam-
ined under the foregoing Commission.

1. Where do you reside, and what
is your occupation?
2. Were you ever engaged in the business
of cutting ice, - If yea, when, for how
long and where?
3. Do you know Nathl. J. Wyeth one of the
Pltfs? If yea, for how long have you
known him?
4. Was Mr. Wyeth ever for any length
of time absent from this part of the
country? If yea when was represented
to have gone, and with what intentions
as to a ~~permanent~~ residence abroad. If you
have knowledge, state the times of his absence.
5. Do you know anything of a certain ma-
chine or apparatus for cutting ice,
called Wyeth's Ice Cutter ^{or the Ice cutter} used by the
Pltfs on Fresh Pond? If yea, state

when you first knew anything of said machine & the circumstances connected with your first knowledge of it.

6. What was the first machine for cutting ice, which you ever saw or heard of, who made it, what was it made of, & how was it constructed?
7. If you ever made an Ice Cutter, or Model of one, State when, for whom & by whose directions & for what purpose was said model made?
8. If you ever saw Wyeth's Ice Cutter in operation state when and where you first saw it ~~in~~ operation, whether or not, and how frequently you have since seen it, either in operation or off the ice, and who has used it?
9. Who was the inventor of the said Machine called Wyeth's Ice Cutter?
10. In what manner & on what occasions has said N. J. Wyeth to your knowledge asserted his claim to said invention & the patent therefor?
11. State particularly the circumstances and facts within your knowledge touching Wyeth's claim to his patent & the notice thereof to persons infringing

3 - - - 4

upon it especially to the Defendants & co. or any member of that firm.

12. The

upon it especially to the Defendants
Ston & Co. or any Member of that firm.

12. Were you ever applied to by any
person other than S. J. Wyeth to make
or assist in making an ice cutter? If
yea, State who first applied to you,
When was it, what sort of a machine
were you requested to make, & Whether
not the first person who so applied to
you, then knew of Wyeth's Patent, or
how otherwise?

13. Whether or not did you make the
machine so applied for? If yea please
to describe it as to its resemblance or
dissimilarity to Wyeth's?

14. Whether the person for whom it was
made used it or not, & if not, why not?

15. Whether or not you ever made or
assisted in making an ice cutter for
Merrill Wyeth, If yea State when
it was & what sort of a machine
was it.

16. When was Mr. S. J. Wyeth at that
time, If absent from this neighborhood
when was he expected to return if ever.

17. Whether or not you ever made any
ice cutters for the Defendants Leonard
Ston & Co. or any member of that firm?

If yea, State when you made the first
one and who applied to you to make it
on whose account did you make it
and please to describe the machine so
made, either by reference to some machine
or model otherwise.

18. If you shall say that Saml. Barnard
or any other Member of Defendants firm
spoke to you to make the machine.
State what conversation was had
between you if any relative to Wyeth's patent
& when was A. J. Wyeth then?

19. How many, or about how many
of those cutters have you made for
Stone & Co. and at or about what times?

20. Have you ever made any other upon
the same plan as ~~that~~ ^{Stone & Co's} for other persons?
If yea, for whom and when?

21. I have ever seen any of the cutters
for Stone & Co. on the Pond or in
operation if yea ^{State} when

22. What do you consider the most essential
part of the machine used by Stone & Co.

23. What do you consider the most essential
parts of Wyeth's machine?

24. Whether or not do the two machines
viz. that used by Stone & Co. & Wyeth's

operate in the same manner & produce the same results on the same principles or do they operate in different manners & produce the same results on different principles, or how otherwise?

25- What was the method of cutting ice before Wyeth's Invention?

26 If you have ever used Wyeth's Machine or seen it used, describe the mode of its operation & state what advantages it gives over the old methods of cutting known before its invention.

27. If you know any thing more than what you have already stated in answer to the preceding interrogatories which may be of benefit to the D^{ft}. in the hearing of this cause please declare the same as fully as if particularly interrogated thereunto
Gardner & English
Solicitors for D^{ft}s.

In Chancery,
U. S. Circuit Court. First Circuit
Wyeth et al. vs. Stone et al.

Cross Interrogatories to be propounded to
Sexton Pratt & John Barker, witnesses
to be produced to the Plaintiffs and
examined in the above entitled case.

1 - Are you now or have you been in the employment of either or both of the Plaintiffs? If yes, in what capacity are you, or have you been so employed?

2. Did you ever see or hear of an ice cutter for which Wyeth claimed to have a Patent previous to his first absence? If yes, how long before?

3. If in answer to the 6th direct interrogatory you do not fix accurately the time when you first saw a machine for cutting ice you will please name, as near as you can, the year and month when you first saw such a machine -

4. Did you not see a machine for cutting ice similar to the one now called Wyeth's patent long before you ever heard that he had any patent for it? If yes, how long?

5. Had not a machine for cutting ice similar to the one now used by the Plaintiffs, in common use among persons engaged in the ice business long before you ever heard of any Patent therefor?

6. If in answer to the 9th direct Interrogatory you name the inventor of the ice cutting Machine, please say how you know who was the inventor and when you first knew of his being the inventor?

7. Have you ever made any Ice Cutting machine for the Defendants or for any other persons besides Tudor & Wyeth — If yea, when & how many? State particularly.

8. If you say Wyeth has ever asserted his right to his patent for said machine please state particularly when, where, to whom he asserted it, and give particularly all that was said by said Wyeth on said Occasion.

9. Did you ever hear Mr. Wyeth or Mr. Tudor or any person in their behalf forbid the Defendants using an ice cutter, if yea, when, where, and to whom?

Has not Wyeth to your knowledge expressly stated that he was willing any body should use said machine without molestation by him?

10. If you knew that Wyeth had a patent for this Ice cutter, why did you make machines for other persons when applied to?

11 By so doing did you not know you were infringing said Wyeth's patent, or did you have permission from Wyeth to make them, or had you license so to do, or did you make them in so different a form that you believed you

did not infringe upon said Patent or how otherwise?

12. If in answer to the seventeenth and 18th direct interrogatories you say that you made Ice Cutters for the Defendants, describe minutely the differences between those made by you for defendants, and those used by plaintiffs, and state particularly all the conversation you had with any or all the Defendants when they spoke to you, to make their Machines, who was present? State all that was said.
13. Why did the Defendants make their Ice Cutters of a different form and shape and size, and in a different manner from the Plaintiffs, or why did they have them so made?
14. Please enumerate the names of persons particularly who have been in the habit constantly of using Machines for cutting ice similar to those used by Tudor & Wyeth, and by the Defendants on Fresh Pond, and on ponds in that vicinity - during the last ten or eleven years.
15. Do you not know that Haynes, Abiel Wyeth, Ruple, Hill, Richardson & others have so used similar Machines? and have they not used them so far as you know, without any prohibition

or objection on the part of the Plaintiffs or any of them, If any objections have ever been made, State when and where they were first made and by whom.

State how long the persons above named have used said Machines.

16th Have not machines for cutting Ice similar to those used by Defendants been in common use among all persons employed in the business of cutting ice for several years past? If yes, have they not been so used so far as you know without objection on the part of the Plaintiffs and in plain sight of them and their workmen on said Fresh Pond.

17th Do not the Ice Cutters used by the Defendants operate on the same principles as a tool called a Match plane or Carpenter's plough, and do they not produce the same effect upon ice in cutting it, as the plough or match plane produces upon timber or boards? Are they not both used for the purpose of cutting grooves? Is there any thing new in this mode of cutting grooves?

18th Is not the ice cutter commonly used by the Defendants made with plough handles and a single cutter, a great improvement on the one used by the Plaintiffs with double cutters & without handles?

19th Does not the Ice cutter used by

Defendants operate more easily and with less friction and resistance than that of Plaintiffs?

20th Have you ever known the Plaintiffs or persons in their employment to borrow Ice Cutters from the Defendants for the purpose of cutting deeper and better than they could with the machines of Plaintiffs? Or have they ever borrowed a machine similar to the one used by the Defendants of Stedman or some other person to use in preference to the one used by Plaintiffs?

21st Do you not consider the Ice Cutters used by Defendants to be a manifest improvement on those used by the Plaintiffs? If you, State wherein.

22^d If you know of any thing more than what you have already stated in answer to the foregoing interrogatories and cross Interrogatories, which may be of benefit to the Defendants in the hearing of this cause; please state ~~the same~~ the same as fully as if thereto particularly interrogated?

The Defendants object to the 12th, 13th, 14th, & 15th Interrogatories on the part of Plaintiffs as being irrelevant

Geo. Tyler Bigelow
Solicitor for Defendant

A true Copy, Attest. Francis Bassett Clerk

Answers of Deo. Pratt of Cambridge, blacksmith, to
interrogatories on behalf of the plaintiffs

- 1 To the first interrogatory he says. I reside in Cambridge, & my occupation is that of a blacksmith
- 2 To the second interrogatory he says; I never was engaged in getting ice.
- 3 To the third interrogatory he says; I know him & have known him about fifteen years.
- 4 To the fourth interrogatory he says; He was absent for a year or two from this part of the country (he) went away on two different occasions, but I cannot recollect the exact times. I understood that he went on both occasions to the Oregon territory. As to his intentions, respecting a permanent residence there, I cannot say.
- 5 To the fifth interrogatory he says; I do know about said machine. The first that I ever knew of this machine was in the fall of 1825 when I was employed by Mr. Wyeat to make the iron part of the machine, which I finished in January 1826. In 1824 (December) I made another machine for him which is the one now in use and which is the patent machine. This one has been in use ever since
- 6 To the sixth interrogatory he says: The first machine

for cutting ice, which I ever saw or heard of, was the one I ^{hardly} made for Mr. Wyck in 1825, as above mentioned. Part of it was of wood, and part of iron. There was a wooden frame, with an iron plate, and chisels, for cutting the ice.

7 To the seventh interrogatory he says; I helped make the model of an ice cutter, in 1828 I think, for Mr. Wyck and under his directions, and which he said was to be sent to Washington. The machine itself I had made myself in 1824 for Mr. Wyck and under his directions. This is the ice cutter now in use.

8 To the eighth interrogatory he says; I first saw it in operation on Fresh pond, immediately after I had finished it. I have seen it in operation more or less every winter since I have seen it used by various persons in Mr. Wyck's employment I have also seen it often when not in use. I have repaired it as much as two or three times a year, ever since

9 To the ninth interrogatory he says: It was Mr. Wyck who was the inventor, as I have always understood

10 To the tenth interrogatory he says; I have frequently heard Mr. Wyck in my shop say that the invention was his, and that he had got a patent for it, but I cannot name any particular time.

11 To the eleventh interrogatory he says; Mr. Wyck always claimed to have patented his machine. A machine was afterwards got up by Mr. Stedman which Mr. Wyck

said was an infringement of his patent, but -
I do not know as to notice thereof to the
defendants, or any one else

- 12 To the twelfth interrogatory he says; Messrs. E. &
J. Stedman applied to me in December 1828 to
make an ice cutter for them. The frame resembled
Mr. Wyeth's. They knew of Mr. Wyeth's patent, because
Mr. E. Stedman said he thought it was different
enough to clear the patent.
- 13 To the thirteenth interrogatory he says; I and my
partners did make the machine applied for. The
frame was of iron, resembling Mr. Wyeth's as I have
before stated. Instead of having steel points
to cut the ice (as in Mr. Wyeth's) they had steel
loops. The only difference was in the cutting
part of the machine.
- 14 To the fourteenth interrogatory he says, They did
not use it, except a little one winter. It did
not work well and Mr. S. Stedman told me
that Mr. Wyeth had forbidden them.
- 15 To the fifteenth interrogatory he says, I assisted
in making an ice cutter for Mr. Abiel Wyeth
in 1836. It was made with a plate of iron
having four points to it. It had a guide
to it, which served to direct it. I cannot give
an intelligible description of it, without a model.
- 16 To the sixteenth interrogatory he says; Mr. A. J. Wyeth
had then gone to the Oregon Territory. I believe he
was not expected to return very soon. Some thought
he never would return.

17 To the seventeenth interrogatory he says: I have made two ice cutters for the defendant & Leonard Stone & Co. The first one I made was in December 1836. Mr. Samuel Barnard applied to me to make it for Leonard Stone & Co. I made it after the pattern of one which Mr. Stedman now uses. It was made wholly of iron, except the handles which were of wood. The ice was cut by ~~four~~ four steel points, made in the form of a chisel, attached to a plate of iron. I cannot describe it without a model.

18 To the eighteenth interrogatory he says: Mr. Barnard spoke to me to make it and I told him I did not want to, because Mr. Wyeth had a patent and it might be an infringement of his. He said if I would make it, he would clear me from any damage. He also said he thought it was a chance if Mr. Wyeth ever came back to claim his right. Mr. Wyeth was then in the Oregon country.

19 To the nineteenth interrogatory he says: I have made two for them, one in December 1836 and one in January 1838.

20 To the twentieth interrogatory he says: I made Jas. D. Read one upon the same plan, in 1838. I made one for Capt. Coolidge, one for David Haynes, one for Smith Bright, one for William Richardson, one for William Gay, and I have made some to go to New York. I have made all these since 1836, but cannot recollect the exact times.

21 To the twenty first interrogatory he says: I saw Stone & Co.'s machines in operation in 1838 on the pond.

- 22 To the twenty second interrogatory he says; I consider the points that cut the groove to be the most essential part of the machine
- 23 To the twenty third interrogatory he says; I consider the points the most essential part of Wyeth's machine
- 24 To the twenty fourth interrogatory he says: They produce their results by the same principles. Wyeth's cut, two grooves at a time, one on each side; and Stone & Co's only cuts one groove at the time. I consider them to be both upon the same principle, as to the cutting part.
- 25 To the twenty fifth interrogatory he says: I believe it was cut with axes and saws
- 26 To the twenty sixth interrogatory he says: I have seen it used. It marks the ice into square blocks and cuts a groove, so that the block may be split off by a bar. It saves a great deal of labor, as compared with the old method, and the blocks are cut of the same size, and are cut more smoothly than they could be with an axe.
- 27 To the twenty seventh interrogatory he says: I know of nothing further

Answers to cross interrogatories

- 1 To the first cross interrogatory he says: I am not and have not been in the employment of the plaintiffs. I have frequently worked for them.
- 2 To the second cross interrogatory he says: I heard of no one, except the one I first made, or helped make, for him, which was partly of wood, and which was thrown aside. I could not say how long before.
- 3 To the third cross interrogatory he says: The charge on my books for making the row work is January 23. 1826. I began it probably the latter part of 1825
- 4 To the fourth cross interrogatory he says: No Sir. I never saw one before I heard that he had a patent for it.
- 5 To the fifth cross interrogatory he says: No Sir. There was none such in use, to my knowledge
- 6 To the sixth cross interrogatory he says: I only know it from his bringing me the patterns and giving me instructions as to making it. This was in 1827
- 7 To the seventh cross interrogatory he says. I have already answered this question in my answers to the 19th and 20th direct interrogatories
- 8 To the eighth cross interrogatory he says: I cannot answer this question more fully than I have done in my reply to the tenth direct interrogatory

- 9 To the ninth cross interrogatory he says: I never heard Mr. Wyeth or Mr. Tudor or any one on their behalf forbid the defendants using an 'ice-cutter'. I don't recollect ever hearing Wyeth state that he was willing any body should use said machine, without molestation.
- 10 To the tenth cross interrogatory he says: I did not make them till they agreed to stand between me and all harm.
- 11 To the eleventh cross interrogatory he says: I expected it was an infringement of his patent. I was not certain. I had no license or permission from him.
- 12 To the twelfth cross interrogatory he says: The difference between the machines is that Mr. Wyeth's machine cuts two grooves, whereas Stone and Barnard's cut, but one. Stone and Barnard's has a guide to run in the second groove which does not cut any. I cannot give a minute description of the difference, between the two machines, so as to be intelligible, without a model. All that I can recollect of my conversation with Mr. Barnard, I have stated in my reply to the eighteenth direct interrogatory. I don't recollect who was present.
- 13 To the thirteenth cross interrogatory he says: I don't know of any reason except that they expected to clear the patent.
- 14 To the fourteenth cross interrogatory he says: The only person I have ever seen using ^{such} machines (except Tudor and Wyeth and Stone &c) is Cable

Coolidge

- 15 To the fifteenth cross interrogatory he says: I have never seen any of these persons using their machines and know not as to any prohibition or objection on part of plaintiffs.
- 16 To the sixteenth cross interrogatory he says: I have never seen any such machines in use on the pond except those of the plaintiffs, the defendants, and (on one occasion) of Capt. Coolidge. I do not know as to whether they were used in sight of plaintiffs or their workmen, or not.
- 17 To the seventeenth cross interrogatory he says: It cuts a groove similar to that of a carpenter's plough, but I should not consider the principle the same. One is shoved by the hand and the other drawn. It is a new mode of cutting grooves in ice.
- 18 To the eighteenth cross interrogatory he says: I could not say whether it is an improvement or not. I have never used them.
- 19 To the nineteenth cross interrogatory he says: I do not know, but should not suppose that it did.
- 20 To the twentieth cross interrogatory he says: I do not know any thing about it.
- 21 To the Twenty first cross interrogatory he says: I cannot say whether they are an improvement or not, as I have never used them.

22 To the twenty second cross interrogatory he says: I know of nothing further.

Walter Pratt

John Barker

Answers of John Barker of Cambridge, carpenter,
to interrogatories on behalf of the plaintiffs.

- 1 To the first interrogatory he says; I reside in West Cambridge and my occupation is that of a carpenter
- 2 To the second interrogatory he says; I have been engaged in cutting ice on Fresh pond, more or less, every winter since 1829, with the exception of one winter, in the employment of Mr Tudor. One winter I went to Bath and cut ice for him I have cut some ice at Spot pond for him
- 3 To the third interrogatory he says; I know him and have known him for twenty five years
- 4 To the fourth interrogatory he says; Mr Wyck has been twice to the Oregon territory, but I cannot tell the exact dates, nor how long he was absent I don't know as to his intentions of a permanent residence. I never understood from anybody that he intended to live there.

5 To the fifth interrogatory he says; I know about said machine. I first knew of it when I first commenced work for Mr. Tudor. I used it to cut the first ice I ever cut for Mr. Tudor.

6 To the sixth interrogatory he says; The first machine for cutting ice, which I ever saw or heard of was, Wyeth's ice cutter, the same which is now in use. It was made of iron principally, the cutting edges of steel. It has a frame of iron, about three and a half feet long by about a foot and nine inches. There are four cutting points, on each side, each of which cuts a little deeper than the one before it. It is drawn by a horse and cuts the ice into square blocks.

I wrote one which was made principally of wood, with steel edges attached, which I saw on Fresh pond, I think, in 1827 and a full one said to be Wyeth's invention, but which was soon thrown out of use.

7 To the seventh interrogatory he says; I made, or assisted Mr. Decker Pratt to make, a model of Mr. Wyeth's ice-cutter, by directions of Mr. Wyeth; and I understood it was to be sent to Washington to get a patent. I think this was in 1829, but I am not positive.

8 To the eighth interrogatory he says, I first saw Wyeth's ice-cutter in operation in the winter of 1828-29, on Fresh pond. I have seen it in operation, every winter since, except one; and have also seen it frequently when not in use. I have used it myself, and have seen it used by different persons in Mr. Tudor's employment and it has been let and used by others.

9 To the ninth interrogatory he says, I always understood that A. J. Wyeth was

- 10 To the tenth interrogatory he says: I have repeatedly heard Mr. Wyeth say that he had a patent and should maintain his right to it, but I cannot recall any particular occasion.
- 11 To the eleventh interrogatory he says: Mr. Eben Stedman once applied to me to ^{make a} machine for him like Wyeth's old wooden one, but afterwards told me to stop, because Wyeth notified him that he had got or was going to get a patent and had threatened to prosecute him if he proceeded to build. This was the latter part of 1824 or the beginning of 1828. I don't know as to notice to defendants.
- 12 To the twelfth interrogatory he says: Mr. Eben Stedman applied to me (as above mentioned) to make an ice-cutter for him, and he was the first and only person who ever so applied. It was to be a wooden frame, with steel cutters, guided by an iron plate fastened to the wood. Mr. Stedman knew of Wyeth's patent, because he told me that Mr. Wyeth had notified him not to proceed, as I have above stated.
- 13 To the thirteenth interrogatory he says: I did not make the machine.
- 14 To the fourteenth interrogatory he says: He did not use it, because it was not made.
- 15 To the fifteenth interrogatory he says; ~~he did not~~ ~~make the machine~~ ~~interrogatory~~. I never did.
- 16 To the 16th int. he says: ~~Mr. Wyeth notified me~~ ~~that he had a patent~~ I do not know.
- 17 To the seventeenth interrogatory he says; I never made an ice-cutter for defendants.

- 18 To the eighteenth interrogatory he says; They ~~was~~ never spoke to me about making a machine
- 19 To the nineteenth interrogatory he says; I never made any
- 20 To the twentieth interrogatory he says; I never have
- 21 To the twenty first interrogatory he says; I have seen Stone and Co's cutters in operation on the pond frequently. Every winter from three to five years past, except the winter I was at Bath.
- 22 To the twenty second interrogatory he says; The most essential parts are the cutters and the guide.
- 23 To the twenty third interrogatory he says; The cutters are the most essential part of Welch's machine
- 24 To the twenty fourth interrogatory he says; I consider the principle of the two machines the same, and they produce nearly the same results. The manner of using them is different
- 25 To the twenty fifth interrogatory he says; I don't know that I ever saw any ice cut before the cutters were introduced. I presume it was cut with axes & saws.
- 26 To the twenty sixth interrogatory he says; I have seen said machine frequently in operation. It cuts a certain ^{depth} into the ice, three or four inches, and then the block is split through by bars and saws. It is drawn by a horse over the ice, in two directions, the second at right angles with the first. When one course is gone through, the machine is turned over and drawn back, so as to deepen the cuts or grooves through

the same course). Its advantages consist in cutting the ice in a much better shape for packing than can be done in the old way by axes and saws, except by a great deal of labor. It is a great saving of labor.

- 27 To the twenty seventh interrogatory he says; I know of nothing further, except that I heard a conversation, six or seven years ago, between a Mr. Brooks of Philadelphia and Mr. S. Stone one of the defendants, in which Mr. Brooks said he talked of purchasing a machine of Mr. Tudor, with the privilege of using it. Mr. Stone replied that they did not consider the machine of any use - they could get ice faster without it. About four or five years ago, I saw Mr. Geo. Stearns, making an experiment on the pond with a circular saw for cutting ice. I observed to him that the saw worked very pretty, and his reply was that Nat. would not be able to stop them from using that.

Answers to cross interrogatories

- 1 To the first cross interrogatory he says; I saw and have been in the employment of the plaintiffs for many years, in the business of getting ice.
- 2 To the second cross interrogatory he says; I ~~was not~~ ~~know~~ know he had an ice cutter before his first absence, but I don't know how long

before)

- 3 To the third cross interrogatory he says: I cannot fix the date. It was in 1827, I think. I refer to the old machine, made partly of wood. The improved one I first saw in the winter of 1828-29, I believe.
- 4 To the fourth cross interrogatory he says: I did not.
- 5 To the fifth cross interrogatory he says: It was not.
- 6 To the sixth cross interrogatory he says: I knew he was the inventor by hearing him say so, and likewise by making a model for him, or helping make it. This was in 1828 or 1829.
- 7 To the seventh cross interrogatory he says: I have not.
- 8 To the eighth cross interrogatory he says: I cannot remember any particular occasion, but have often heard him assert his right.
- 9 To the ninth cross interrogatory he says: I never heard Mr. Tudor or Mr. Wyck or any one on their behalf, forbid the defendants using an ice-cutting. I never heard Wyck say he was willing any person should use his machine without molestation.
- 10 To the tenth cross interrogatory he says: I made no machines for other persons.
- 11 To the eleventh cross interrogatory he says: I did not make any.

- 12 To the twelfth cross. interrogatory he says: I made no ice cutters for the defendants
- 13 To the thirteenth cross interrogatory he says: I do not know
- 14 To the fourteenth cross interrogatory he says: Several persons have used similar machines on Fresh Pond. Stedman was the first. How long that has been in use I can't say. It has been in use, more or less, every winter since. William Gay has also a similar machine; Josiah Coolidge has one; David Haynes has one; William Richardson has one. There may be more. There have not been in use more than one winter, I think. Some of them may have been two. I think all these machines are on the same principle with the plaintiff's machine.
- 15 To the fifteenth cross. interrogatory he says: I have mentioned in my reply to the previous int. all whom I remember to have used such machines. I don't know whether the plaintiffs have ever made any prohibitions or objections
- 16 To the sixteenth cross. interrogatory he says: The defendants's machine and also Stedman's have been in use for some years. The other machines only for a short time. Machines like the defendants's have not been in use among all persons on the pond, because some have hired Wyck's machine and some have used axes. They have frequently used said machines in sight of plaintiffs and their workmen, but I cannot say whether the plaintiffs objected or not
- 17 To the seventeenth cross. interrogatory he says: They both produce the same effect, because they both

makes grooves. The difference is, that in the match-plane or plough the groove is made by one point, while in the ice-cutter it is made by four (or sometimes by six) fastened to the same bar. Two grooves are also cut by the ice-machine at one time, while only one can be cut at a time by the plough; and the cutters of the machine operate as a gage or guide while the plane is guided from the outer edge. I do not know that there is any thing new in this mode of cutting grooves. I never knew of any machine for cutting grooves in ice before Mr. Wye's.

- 18 To the eighteenth cross-interrogatory he says; I do not think it an improvement. I don't think it so good as the plaintiffs's. It is rather cheaper and on that account may be better for one who does not want to get a great deal of ice, and it does not require so much skill in the use
- 19 To the nineteenth cross-interrogatory he says; I should think it did ^{not} ~~not~~. I have ^{not} used the defendant's cutter ~~anywhere~~ at all. I have used similar ones.
- 20 To the twentieth cross-interrogatory he says; The plaintiffs on one occasion borrowed Steadman's cutter (which resembles that of defendants) but I cannot recollect on what account. Our might have been out of order or we might have wanted an extra machine. I have no idea that it was borrowed in preference to their own. I don't recollect that they ever borrowed of defendants.

- 21 To the twenty first cross interrogatory he says: I do not
- 22 To the twenty second cross interrogatory he says, I know of nothing further.

John Barker

United States of America

District of Massachusetts p. City of Boston, the twenty first and twenty second days of September A D. Eighteen hundred and forty

On these days personally appeared before me, the undersigned, the aforesaid deponents Dexter Pratt and John Barker, and being by me carefully examined, cautioned and sworn to tell the truth, the whole truth and nothing but the truth, they gave severally the foregoing depositions, each of which was reduced to writing by me in the deponent's presence, and each was subscribed by the deponent in my presence. The foregoing Depositions were taken by me by virtue of the commission hereto annexed and to be used in the cause therein mentioned

Geo S. Hillard.

Commissioner

Commissioners fee \$ 15.00
Deponent's do " 2.50

Myself and Mr. Stone did

Depositions of
Dexter Pratt, &
John Barker
for pps -

Dec 10-1840s

Spent & Certified
in Court.

F. B. Clark

MASSACHUSETTS

.....SS.

United States of America.

Circuit Court of the
United States, within and for the
Massachusetts District

TO *George S. Hillard, George T.
Curtis & Edward G. Loring* all of
Boston, Esquires or to either of them

KNOW YE, That, reposing confidence in your wisdom, prudence and
fidelity, we have appointed, and by these presents do authorize and empower you
to take the answers to the interrogatories hereunto annexed of

*Abiel Wyeth, Emery Willard, James Brown,
James W. Fenno, Abel Willard & Leonard
Daniels*

to be used in a certain cause now pending in said Court, wherein

N. S. Wyeth et al are Pffs in Eq.

vs

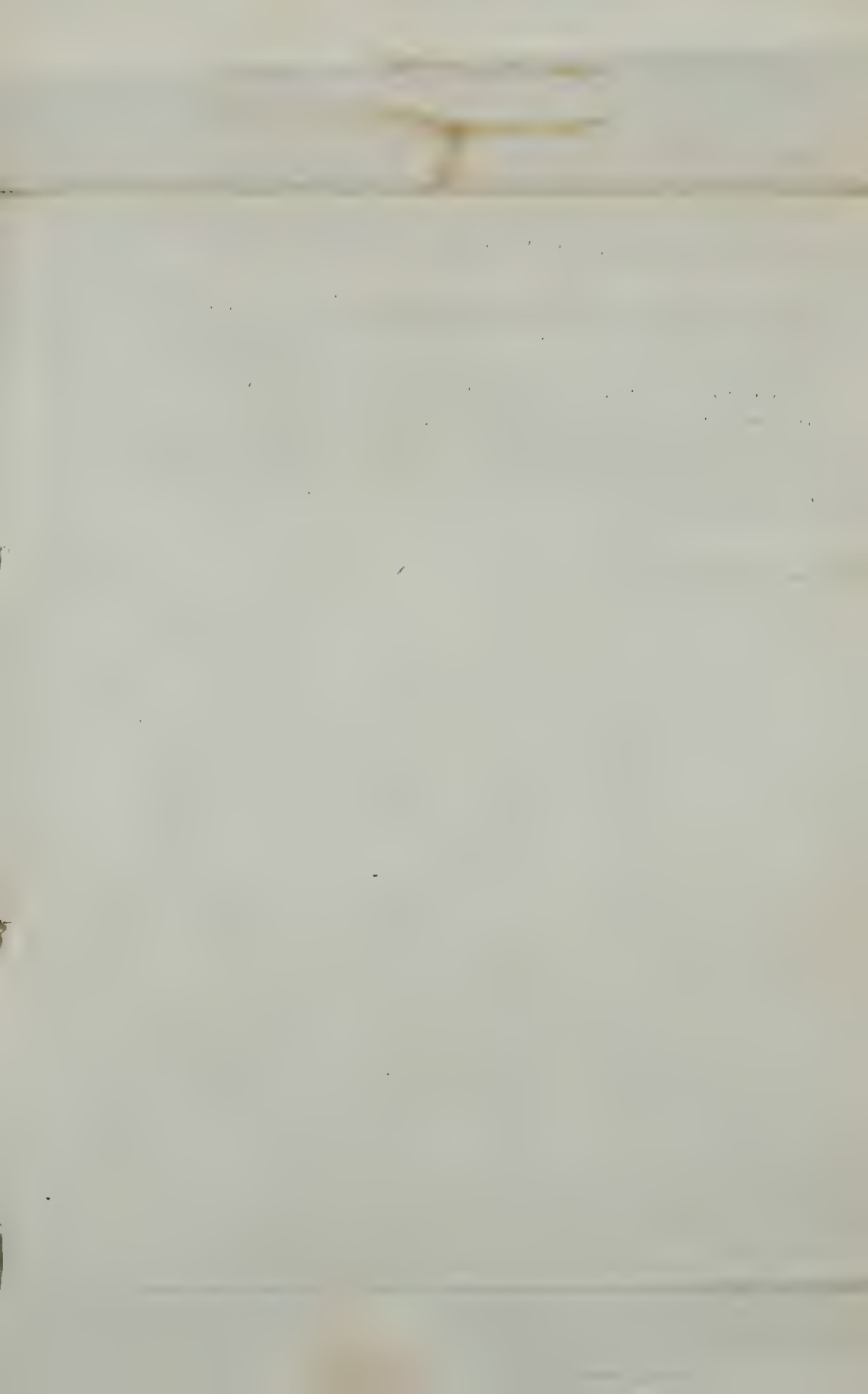
Leonard Stone et al

And to this end, at certain days to be by you appointed for that purpose, to
cause said witnesses, as aforesaid, to be brought before you, and each witness, while
present before you, to examine carefully on oath touching the premises. And when
you shall have taken the examination as aforesaid, to reduce or cause the same to be
reduced to writing, and to be subscribed by each of said witnesses in your presence.
And the same, so taken and subscribed, to return, together with this Commission and
your doings herein enclosed, sealed and directed to the *Circuit* Court aforesaid,
next to be holden at Boston, on the *Fifteenth* day of *October*
next. *or as soon as the same shall have been executed.*

In testimony Whereof, we have caused the seal of the said *Circuit*
Court to be hereunto affixed.

Witness, the Honourable *Roger B. Taney* at Boston,
this *twentieth* day of *September* in the year of our Lord
one thousand eight hundred and *Forty*

Francis Bassett CLERK.



1 2
In Chancery.

U. S. Circuit Court - First Circuit -
Wyeth & others vs. Stone & others -

Interrogatories to be proposed on
behalf of the Plaintiffs in the above
cause to Abel Wyeth, Emery Villard,
James Brown, James W. Fenno, Abel Villard
& Leonard Daniels - Witnesses to be produced
and examined under the annexed commis-
sion -

1. What is your occupation & where do
you reside?
2. Do you know V. S. Wyeth? If yea,
how long have you known him?
3. Do you know or have you ever heard
anything about a certain Machine used
used for cutting ice, called Wyeth's
ice Cutter? If yea state when you
first saw, knew or heard of said Machine
who claimed to have invented it, &
to have a patent for the invention.
4. If you shall say that said Nathaniel
J. Wyeth claimed to be the inventor of
said Machine & to have a patent for
it, state particularly on what occasion
and to whom he has to your knowledge
asserted his claim to said invention
& patent.

5. Whether or not it has been a matter of general notoriety & if yea, for how long among the persons engaged in the ice business on Fresh Pond & the vicinity that Wyeth's said Machine was patented & that said Wyeth claimed the invention or how otherwise.
6. If said Wyeth has ever to your knowledge warned others of his said Patent or forbidden them to infringe upon his rights state particularly on what occasions & what persons he has so ^{warned or} forbidden?
7. Whether or not the Defendants Leonard Stow & Co. or either & which of them ever had knowledge or notice of Wyeth's Patent so far as you know?
- If yea, state when they or either of them had such notice or knowledge & how you know the fact, whether by declarations of the Defendants or some of them or how otherwise?
8. If you know anything more than what you have already stated in answer to the above interrogatories which may be of benefit of the Plffs in the hearing of this cause declare the same as fully as if particularly interrogated therein.
- Gardner & English
Solicitors for Defts

3
An Chanery

U. S. Circuit Court - First Circuit.

Wyeth & al -- vs. Stone & others.

Cross Interrogatories to be propounded.
Abel Wyeth, Emory Willard, James Brown,
James M. Fenno, Abel Willard & Leonard
Dennies, Witnesses to be produced and
examined in behalf of Plaintiffs in
the above entitled case.

1. Please state whether you have been engaged
in the business of cutting ice? if yea, when
how long and how much have you cut
yearly or at any time?
2. Was not said machine for cutting ice
in common use before you heard that
Wyeth or any other person had a patent
therefor? if yea, how long before?
3. Do you not know that said machine
for cutting ice such as is claimed by
Plaintiffs have been in common use
among all persons engaged in the ice business
for several years past, and have they not
been so used freely without objection on the
part of the Plaintiffs?
4. Have you not heard Nathl. G. Wyeth
expressly say and declare that ~~any~~ body
might use said machine in welcome, and that he

did not and should not claim any exclusive right to use the same? If yea, When? -

5. Have not machines for cutting ice, similar to those used by plaintiffs and by Defendants been commonly used by persons on Fresh Pond for several years past? and in so using them must not the Plaintiffs have known of their use? If yea - do you know these Plaintiffs have ever forbidden their use & when?

6. If you say in answer to the seventh direct interrogatory that you have had any conversation with Defendants on the subject of these ice cutters, please state when, & who was present and give all the particulars of such conversations.

7. If you say in answer to the 5th direct Interrogatory, that it was a matter of general notoriety that Nyeth had a patent for said Ice Machines or Cutters please state how you ascertain that it was so generally known? -

8. Have you ever used said Ice Cutters at any time? If yea - who gave you permission so to do or did you use them without permission?

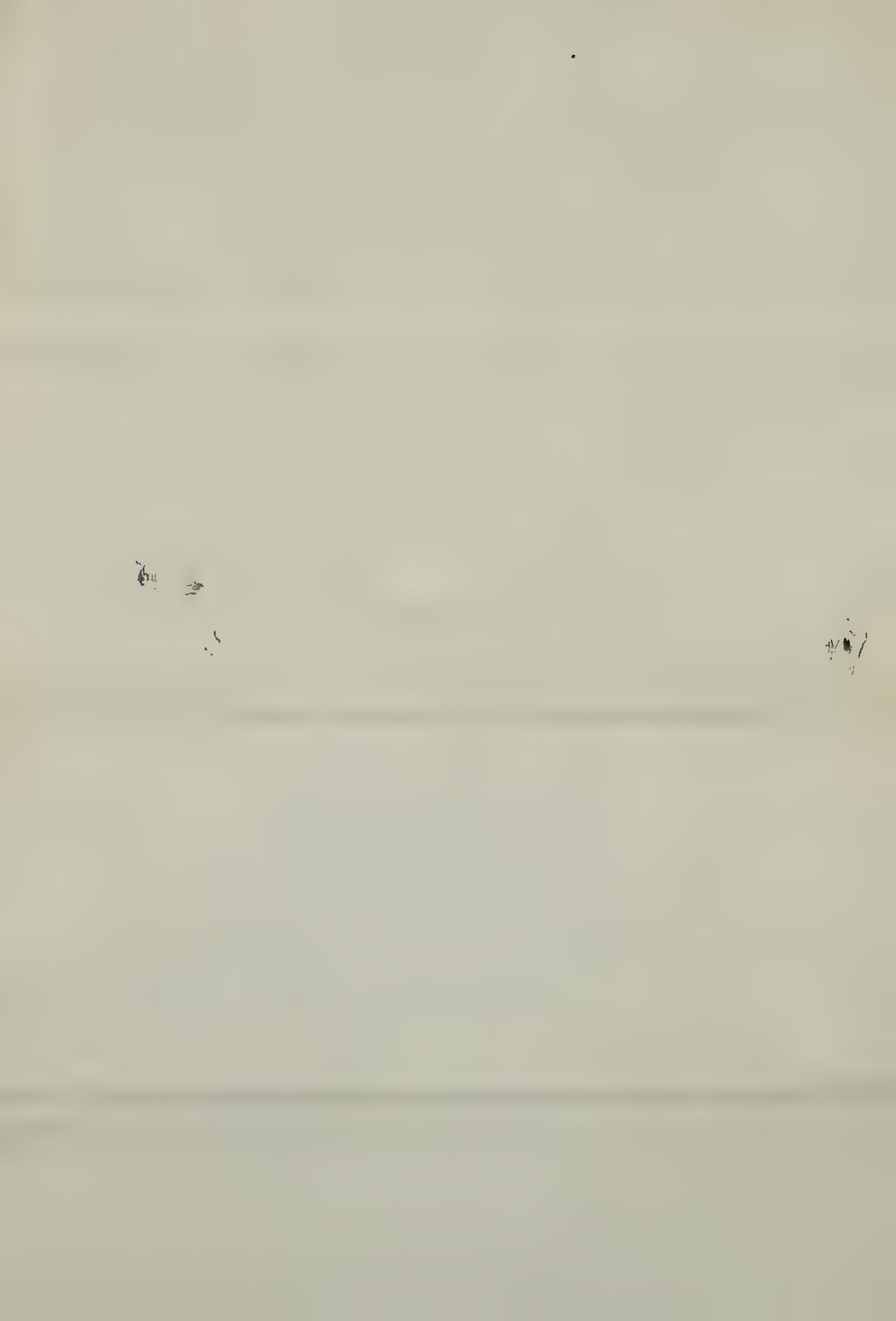
9. Do you know anything further which

may be of advantage to the Defendants in the hearing of the above case other than what you have now stated in answer to the above interrogatories & Cross interrogatories - If yea, please state them as fully as if there to more particularly Interrogated. - -

The Defendants object to the 6th direct Interrogatory as being irrelevant.

Geo. Tyler, Bigelow
Solicitor for Defendants

A true Copy Attest, Francis Bassett Clerk



Answer of Abiel Ugech of Cambridge. Yeoman
to interrogatories on behalf of the plaintiffs

- 1 To the first interrogatory he says; I am a farmer and reside in Cambridge
- 2 To the second interrogatory he says; I know him & have known him for twenty five years.
- 3 To the third interrogatory he says; I do know about the machine for cutting ice, called Ugech's ice-cutter. I recollect the first machine he had built and saw it in use. Mr. A. J. Ugech claimed to have invented it and to have a patent for it.
- 4 To the fourth interrogatory he says; In the winter of 1833 I had a machine built which I expected to make use of, which resembled Mr. Ugech's in principle, but was not exactly the same. Mr. Ugech forbade my using it, because it interfered with his patent right. I took ~~some~~ legal advice and was informed that it would be an infringement and I accordingly gave it up, though I had nearly finished it.
- 5 To the fifth interrogatory he says; It has been a matter of general notoriety among the persons employed in the ice business on Fresh Pond, for the last ten years that Ugech's machine was patented and that he claimed the invention.
- 6 To the sixth interrogatory he says, He has forbidden me as I have stated in my answer to the fourth

interrogatory.

7 To the seventh interrogatory he says: In 1833 when I was making my machine and before I had finished it, and was making an experiment with it upon the ice, Mr. Leonard Stone lent me his horse for a few moments to try it. He asked me whether I was going to use the machine. I told him I was, if Mr. Wyck did not stop me. He asked me if I had any idea that he had any right to prevent anyone's using such a machine and that he did not believe that he had any patent. I then told him that I had gone so far as to examine the register of patents, and that I had found that Mr. Wyck had taken out a patent.

8 To the eighth interrogatory he says, I know of nothing further.

Answers to cross interrogatories

1 To the first cross interrogatory he says: In 1832 I cut about two hundred cords on my own account. ~~He has since then been engaged in the business of getting ice, ever since I have cut for Mr. Dredor, & for a company in Georgia. I have averaged about two hundred cords a year.~~ I have been more or less engaged in the business of getting ice, ever since I have cut for Mr. Dredor, & for a company in Georgia. I have averaged about two hundred cords a year.

2 To the second cross interrogatory he says; It was not.

3 To the third cross interrogatory he says. Machines resembling that of the plaintiff have been in use

for several years upon the pond. I cannot say whether the plaintiffs have objected to it or not.

- 4 To the fourth cross interrogatory he says: I never heard him say so.
- 5 To the fifth cross interrogatory he says: machines resembling those of plaintiff and defendant, have been used for many years on the pond. I presume the plaintiffs knew of it. I don't know whether they have ever forbidden the use of them.
- 6 To the sixth cross interrogatory he says: The conversation was in 1833 and I don't know who was present. I have stated all the particulars that I recollect.
- 7 To the seventh cross interrogatory he says: It was a matter of common talk about the pond.
- 8 To the eighth cross interrogatory he says: I have used them frequently, by Mr. Welch's permission, in every instance.
- 9 To the ninth cross interrogatory he says: I know of nothing further.

Stuart Wright

Answers of James Brown of West Cambridge, Boat-cutter,
to interrogatories, on behalf of the plaintiffs

- 1 To the first interrogatory he says, I am a boat-cutter
and reside in West Cambridge—
- 2 To the second interrogatory he says; I know N. J. Wyeth
and have known him twenty two years
- 3 To the third interrogatory he says; I know about
said machine. I first knew of it— when he was
first constructing it in 1827 or 1828 &
have seen it in operation every winter for the
last ten years. Mr. N. J. Wyeth claimed— to have
invented it and to have a patent for it
- 4 To the fourth interrogatory he says; I once heard
Mr. Wyeth in January or February 1829 forbid
Mr. Samuel Stedman's using an ice-cutter and
tell him he either had taken out or should
take out a patent for his own, and should
prosecute any one who ~~used~~ infringed it.
This was on Fresh pond and Mr. Stedman
was using an ice-cutter, I think he desisted.
I have frequently heard Mr. Wyeth assert his claim
to the invention and patent, but I cannot particularize
any other occasion than the one abovementioned
- 5 To the ~~fifth~~ ^{fifth} interrogatory he says; It has been a
matter of common notoriety among the Cambridge
people, who are engaged in the ice business, for the
last ten years, I should think, that Wyeth's said
machine was patented and that he claimed the

invention

- 6 To the sixth interrogatory he says; I refer to the answer to the 4th int. for an answer to this. I know of no other occasion
- 7 To the seventh interrogatory he says; I know not.
- 8 To the eighth interrogatory he says; I know of nothing further

Answers to cross interrogatories

- 1 To the first cross interrogatory he says; I never was engaged in the business of cutting ice.
- 2 To the second cross interrogatory he says; No Sir; it was not
- 3 To the third cross interrogatory he says; All machines on the same principle have been in use on the pond, whether without objection on the part of plaintiffs, I do not know
- 4 To the fourth cross interrogatory he says; I never heard him say so
- 5 To the fifth cross interrogatory he says; Such machines have been in use on the pond for several years past. I do not know that the plaintiffs ever forbade their use, except in the case of Stedman, before mentioned.

- 6 To the sixth cross-interrogatory he says; I never had any conversations with them about their ice-cutters.
- 7 To the seventh cross interrogatory he says; I know it, from frequently hearing it conversed about in public places
- 8 To the eighth cross interrogatory he says; I never used said ice-cutters
- 9 To the ninth cross interrogatory he says; I know of nothing further

James Brown

Answers of James W. Fenno, of Boston, to interrogations, on behalf of the plaintiffs

- 1 To the first interrogatory he says.
I am engaged in the ice business. I reside permanently in Boston but at present temporarily in Cambridge
- 2 To the second interrogatory he says. I have known Mr Wyeth ten or twelve years.
- 3 To the third interrogatory he says; I have heard of said-machine, but do not distinctly recollect the time when I first heard of it. Mr. Wyeth claimed to have invented said machine and to have a patent for it.
- 4 To the fourth interrogatory he says; From the year 1833 until 1835, in the summer I think, Andrew Dunlap Esq. and myself were partners in business in the practice of the law. Sometime during this period, and I think near the latter part of it. we were called on by a client, to draw the

necessary papers for procuring a patent for a machine for cutting ice. The applicant brought with him, either the machine itself or a model of it, which, I do not recollect. While this model or machine remained in our office Mr. Archamel J Wyeth came in and saw it. He stated that the machine was an infringement of rights which he had secured to an ice-cutter by a patent. What other proceedings were had I cannot call to mind, but the man took away his model or machine and we did not make any application for a patent.

- 5 To the fifth interrogatory he says: I do not know, as until quite recently, I have not been acquainted with persons about Fresh pond.
- 6 To the sixth interrogatory he says: All I know about it is contained in my answer to the fourth interrogatory.
- 7 To the seventh interrogatory he says: I do not know anything about it.
- 8 To the eighth interrogatory he says : I know nothing further

Answers to cross interrogatories

- 1 To the first cross interrogatory he says: I have never been personally engaged in that business. This branch of our business is under the charge of Mr. Wyeth, who superintends the whole of it
- 2 To the second cross interrogatory he says : I do not know.
- 3 To the third cross interrogatory he says : When I have been at Fresh pond, seeing our people cut ice, I have seen other persons using similar machine for cutting ice, within about two years. Ever since I have known Mr. Wyeth, whenever he has spoken of other people using this machine he has complained of

such use as an infringement of his rights.

4. To the fourth cross interrogatory he says ; I never did
- 5 To the fifth cross interrogatory he says , I have already stated all I know upon this subject in my answer to the third cross interrogatory.
- 6 To the sixth cross interrogatory he says ; I never had any conversation with them on the subject.
- 7 To the seventh cross interrogatory he says ; I know not
- 8 To the eighth cross interrogatory he says ; I never personally had anything to do with them
- 9 To the ninth cross interrogatory he says ; I know of nothing further

James M. Farrow

Answers of Leonard Daniels of Cambridge, Wheelwright,
to interrogatories on behalf of plaintiffs

- 1 To the first interrogatory he says; I am a wheelwright and pump maker by trade, and reside in Cambridge.
- 2 To the second interrogatory he says; I know him and have known him for nineteen years.
- 3 To the third interrogatory he says; I know something about said machine. I think I made or helped make some patterns for said machine in 1828. I saw it in operation the next winter. Mr. A. J. Wyck employed me to make the patterns and I always understood that he was the inventor of the machine and had patented it.
- 4 To the fourth interrogatory he says; I don't recollect any particular occasion on which Mr. Wyck asserted his claim to said invention and patent.
- 5 To the fifth interrogatory he says; It has been the general impression among the persons engaged in the ice burrieps on Fresh pond, that said machine was patented and that Mr. Wyck claimed the invention. This has been the impression for twelve years past.
- 6 To the sixth interrogatory he says; I know not.
- 7 To the seventh interrogatory he says. I know not.
- 8 To the eighth interrogatory he says; I know of nothing further

Answers to cross interrogatories

- 1 To the first cross interrogatory he says: I have never been engaged in the business of cutting ice.
- 2 To the second cross interrogatory he says. I don't know that it was. It was not to my knowledge.
- 3 To the third cross interrogatory he says: I never saw any ^{such} machine as Mr. Wyck's in use on the pond, except his own
- 4 To the fourth cross interrogatory he says: I never heard him say so
- 5 To the fifth cross interrogatory he says: I have never seen any similar machines in use on the pond. I have seen two or three machines lying about, but the only one I ever saw in use was Mr. Wyck's.
- 6 To the sixth cross interrogatory he says. I had a conversation with Mr. Barnard about two or three years ago, in which he said he did not think Mr. Wyck had a patent, and I told him I thought he had. No one was present.
- 7 To the seventh cross interrogatory he says: It was a matter of common talk among the mechanics and laboring people employed in said business
- 8 To the eighth cross interrogatory he says: I have never used said machine
- 9 To the ninth cross interrogatory he says: I know of nothing further.

Leonard Danick

Answers of Emory Willard of Brighton, Yeoman,
to interrogatories on behalf of plaintiffs

- 1 To the first interrogatory he says: I reside in Brighton and am a farmer, and I also keep a wharf.
- 2 To the second interrogatory he says: I know him and have known him these twenty years.
- 3 To the third interrogatory he says: I do know about a certain machine called Wyck's ice-cutter. I first knew of it about thirteen years ago I saw it then. Mr. N. J. Wyck claimed to have invented it and to have a patent for it.
- 4 To the fourth interrogatory he says: I do not now remember any particular occasion on which he asserted his claim to the invention and patent.
- 5 To the fifth interrogatory he says: For the last ten or twelve years, it has been generally understood among the men engaged in the ice-business, that said machine was patented and that Mr. Wyck claimed the invention.
- 6 To the sixth interrogatory he says: I do not recollect having heard him warn or forbid any person.
- 7 To the seventh interrogatory he says: I know not.
- 8 To the eighth interrogatory he says: I have nothing further to add except that two or three winters ago I hired

- 4 To the fourth interrogatory he says; I think I heard Mr. Wyck in conversation with Mr. Jas B. Read claim the machine as his invention and said he intended to have the exclusive right of it. I cannot recollect when this was
- 5 To the fifth interrogatory he says; I should think it had been a matter of general notoriety among the persons engaged in the ice business that said machine was patented and that Wyck claimed the invention, for eleven or eight years past
- 6 To the sixth interrogatory he says; I think I have heard Mr. Wyck warn Mr. Elmer Steadman against infringing his patent, but I don't recollect distinctly.
- 7 To the seventh interrogatory he says; I do not know anything about it
- 8 To the eighth interrogatory he says. I know nothing further

Answers to cross interrogatories

- 1 To the first cross interrogatory he says; I have never been engaged in the business of cutting ice
- 2 To the second cross interrogatory he says; I cannot tell certainly, but my impression is that it was in use before I heard it was patented, but I can't say how long before.
- 3 To the third cross interrogatory he says; I do not know.

- 4 To the fourth cross interrogatory he says: I never heard him say so
- 5 To the fifth cross interrogatory he says: I do not know. I am not acquainted with the machines
- 6 To the sixth cross interrogatory he says: I have had no such conversation with the defendants
- 7 To the seventh cross interrogatory he says: By it, being generally spoken of in language as Wyeth's patent
- 8 To the eighth cross interrogatory he says: I have never used said ice cutters at any time
- 9 To the ninth cross interrogatory he says: I know of nothing further

A. Willard

United States of America District of Massachusetts of City of Boston.
 The twenty first, twenty second, twenty third and and twenty fourth
 days of September A. D. Eighteen hundred and forty
 On these days personally appeared before me, the undersigned, the aforesaid
 deponents Abiel Wyeth, James Brown, James W. Fenns, Leonard Daniels
 Emory Willard and Abiel Wyeth, and being by me carefully examined,
 cautioned and sworn to tell the truth, the whole truth, and nothing but
 the truth, they gave severally the foregoing depositions, each of which was
 reduced to writing by me in the deponent's presence, and each was
 subscribed by the deponent in my presence. The foregoing depositions
 were taken by me by virtue of the commission hereto annexed
 and to be used in the cause therein mentioned.

Geo S Willard

Commissioner

Commissioner's fees \$15 00
 deponents do 7.50

Wyeth shd be Stone shd

Depositions of

Abel Wyeth,

Emory Willard,

James Brown,

Samy W. Fenn,

Abel Willard &

Leonard Dandy

for Plfs.

Decr 10-1840

Open'd & Certified
in Court.

F. B. McK

Recd the following affidavits of Respondents in
 our writ for habeas corpus. Stone was viz
 Stones affidavit Stearns affidavit
 Stearns " Deers "
 Barnard " Stearns addit- "

of Francis Bassett Esq Clerk for the return
 to me

J. H. Baylow
 my 25th 41 Solicitor at large

G. T. Bigelow
Rect

Pres. J. A. Davis

Wm. W. W. W.

Fernos Appointments.

I Emory Willard of Brighton in
the county of Middlesex, Teamster, of
lawful age & testifying as on oath.
that about three years ago on one
occasion I fell in an ice house with
ice on my own account at that
time my residence was in Brighton.
I wished to cut the ice on Fresh
pond - I had known Mr. Nathl E
Wright for some years previous.
was well aware that he had
a machine for cutting ice, which
I understood was a patented ma-
chine - He had done other business
with among persons engaged in that
business that Wright's letter was
patented - but such had been
the common talk & understanding
for some time - say for the last
year or six or seven years. & more.

For the purpose of cutting the
hair for myself about three
years ago. Since I have bought
his machine & used it
hundreds of times with it & paid
him for the use thereof I think
between eight & nine dollars.
I am not positive about
the sum - I have been about
that point employed there every
winter for the last twelve
years - I have known Weyeth's
machine ever since it
was first in use on the
continent & always understood
that it was patented
& it has always been
so considered & thus I generally
in my own mind as Weyeth's Patent

See entry -

Emory Walker

Massachusetts Jan^y 10; 1846 From to
his first before me

Edw^d G. Loring

Com. notary

Every child's life

Leonard Daniel.

Cambridge July 11th 1840

I Leonard Daniels of Cambridge & hereunto, on my oath, do depose and say, that about Three years ago, being then on Fresh Pond, Mr. Saml. Barnard being present, and we together examining a machine invented to cut ice by means of a circular saw, said machine constructed by Mr. Mason Hunting of Watertown the said Barnard did then and there say that he thought it would be a good machine, equally so as the Ice Cutter of Mr. Wyeth - I also distinctly recollect in a conversation at another time, before the above conversation, that said Barnard expressed a doubt that said Wyeth had a patent for any Ice Cutter, and also if he had that it could be of any good, and that if he wished to use one that he would not be afraid to do so - the last ^{mentioned} conversation must have taken place the autumn previous to the time when the circular saw above mentioned was brought on to the Fresh Pond, to the best of my recollection and took place soon after a circular saw had been used to cut out the ice in Boston Harbour, and during this conversation said Barnard stated that he thought it might as good a machine as Wyeth's cutter - I told Mr. Barnard at this time that I knew Mr. Wyeth had procured models to be made and supposed he had procured a patent - I have

He repeatedly heard the same North claim to be the
the inventor of the Ice Cutter, being the same as is
now used, with which I am well acquainted, and
believing from personal knowledge, that he is so - and
it has been for many years past, I should think as
much as ten years, a matter of notoriety, in
Cambridge and Watertown, that the same North
did not claim to have taken letters patent for
the Ice Cutter and alledged that all the
cutters used were invasions of his right -

Leonard Daniels

District of Massachusetts Jan^y 10 1840 Turn
to before me. Paul G Loring

Commissary



Leonard Smith.

I Dexter Pratt, of Cambridge, Blacksmith,
in oath depose and say, that the first ma-
chine for cutting ice that I ever saw or
heard of, was a wooden one made by Natha-
niel G. Wyett with some iron parts, ^{which}
^{parts} I made by his direction; a year or two after
that I made one for him wholly of iron
which is the same which I saw this morn-
ing in the District Court Room, and
which was examined by the Judge;
I understood from Mr. Wyett that he
was about to get a Patent for it, and
I actually ^{was assisting in making} made the model which accom-
panied his application; - and ^{soon after} ~~before~~ I had
made the iron machine above mentioned
I stamped Patent upon it by Mr. Wyett's
direction; - This I should think was more than
ten years ago, and up to that time I had
never seen or heard of any other ma-
chine for this purpose; - I went up to
Fresh Pond to see the machine operate
soon after it was made, & for the purpose
of ascertaining whether there were any defects in

it; - I saw it in use then, and have often
seen it in use since, I have had it
to repair frequently every year from
that time to this, so that I know it
have been constantly used by the Plow-
itts who have employed me in repairing
it; - I have also made several other machines
on the same pattern for Mr. Wyeth; -

Several years after I had made the first
ice machine for Mr. Wyeth, Ebenezer
Hodman of Cambridge, applied to me to
^{make a} machine for cutting ice, a little different
from that of Mr. Wyeth's and I made one;
he knew of Mr. Wyeth's Patent but thought
said he could make ^{another} ^{different} machine to
do the same work; I afterwards understood
from Mr. ^{son} Hodman that when he under-
took to use this machine on Fresh Pond
Mr. Wyeth came & purchased him; the
Ebenezer Hodman and Samuel Hodman
were connected together ^{in the business as partners}; - I never saw ~~that~~
machine in actual use, and I be-
lieve it has never been used since; - I have
often seen the ice cutting on Fresh Pond
& never saw Hodman's machine there; -
the next ice-cutting machine that ever

I assisted in making, excepting some made
for Mr. ^{Nathaniel} Wyeth himself, was about ^{four} years ago,
for one Abiel Wyeth; - Mr. Abiel Wyeth
was not in any way connected in business with
Mr. Nathaniel J. Wyeth, though distantly related
to him; and at the time Mr. Abiel Wyeth
came to me to assist in making his machine
Mr. Nathaniel J. Wyeth was absent from
the country, on an absence expected to be for
several years; - This machine which I
helped make for Abiel Wyeth was con-
structed like that which I saw this morning
in the District Court Room, which is com-
plained of as an infringement on
Mr. Nathaniel Wyeth's; - about the
same time I made a similar one for
Samuel Barnard, and George Stearns,
members of the firm of Leverett Stone
Company. ^{for account of the Corporation between George Stearns and myself} and since that I have made
others on the same plan for Stone & Co. for
James B. Read, and other persons; - Samuel
Barnard spoke for the making of the machine
before Abiel Wyeth did although I made
the one for Abiel Wyeth first; - At the time
Barnard spoke to me about making
the machine there was a conversation about

Mr. Nathaniel J. Wyeth's machine; -
I told Barnard I had always understood
that Mr. N. J. Wyeth had a Patent for it.
In answer to that he said that he did not
think his machine was right enough
to Wyeth's in form & construction to be an
infringement of ~~the~~ Wyeth's Patent; but
at any rate that I should be held
liarless against all damages for
making the machine as directed; this
was the substance of the conversation
as I distinctly recollect it, & my impression
also is that Barnard said Mr. Wyeth
would never come back to claim his rights.
Mr. Wyeth at that time had gone to the
Oregon Territory; - Upon this assurance
of indemnity I undertook to make &
did ~~so~~ make the machine; and afterwards
made another larger one, but on the
same construction, for the same
purposes. I have seen machines of this
description in use on Fresh Pond; - I saw
one in use there yesterday; - but I can
not say positively whether I have ever
seen Ives & Co. using them. I have been

present at a great many conversations
since the first invention by Mr. Nathl. J.
Wyeth, relative to his Patent; - it has been
matter of common talk, whether or not a
man could ^{take} a Patent for a simple
machine. ~~or at least for a simple~~

I consider the ^{most} essential part of the machine
used by Stone & Co. to be the plate, cut
into points & succeeding each other at a
slight difference of depth; and the next
most essential part to be the plate
which by running in a groove ^{already cut} on the
regulates the movement of the cutter to
that it ^{must} cut straight & parallel lines; -
I consider the next most essential
part I consider to be the adaptation of
the machine to be drawn by horses, oxen,
or other animals. The same matter I consider
to be the essential parts of Mr. Nathaniel
J. Wyeth's machine. The cutting part of
the two machines is ~~not~~ precisely the
same; there is a slight difference in the
form of the mouth, through which the chips
fall, but it makes no
difference that I know of in the operation.
The cutting part of Mr. Wyeth's machine
is guided by a plate running at the

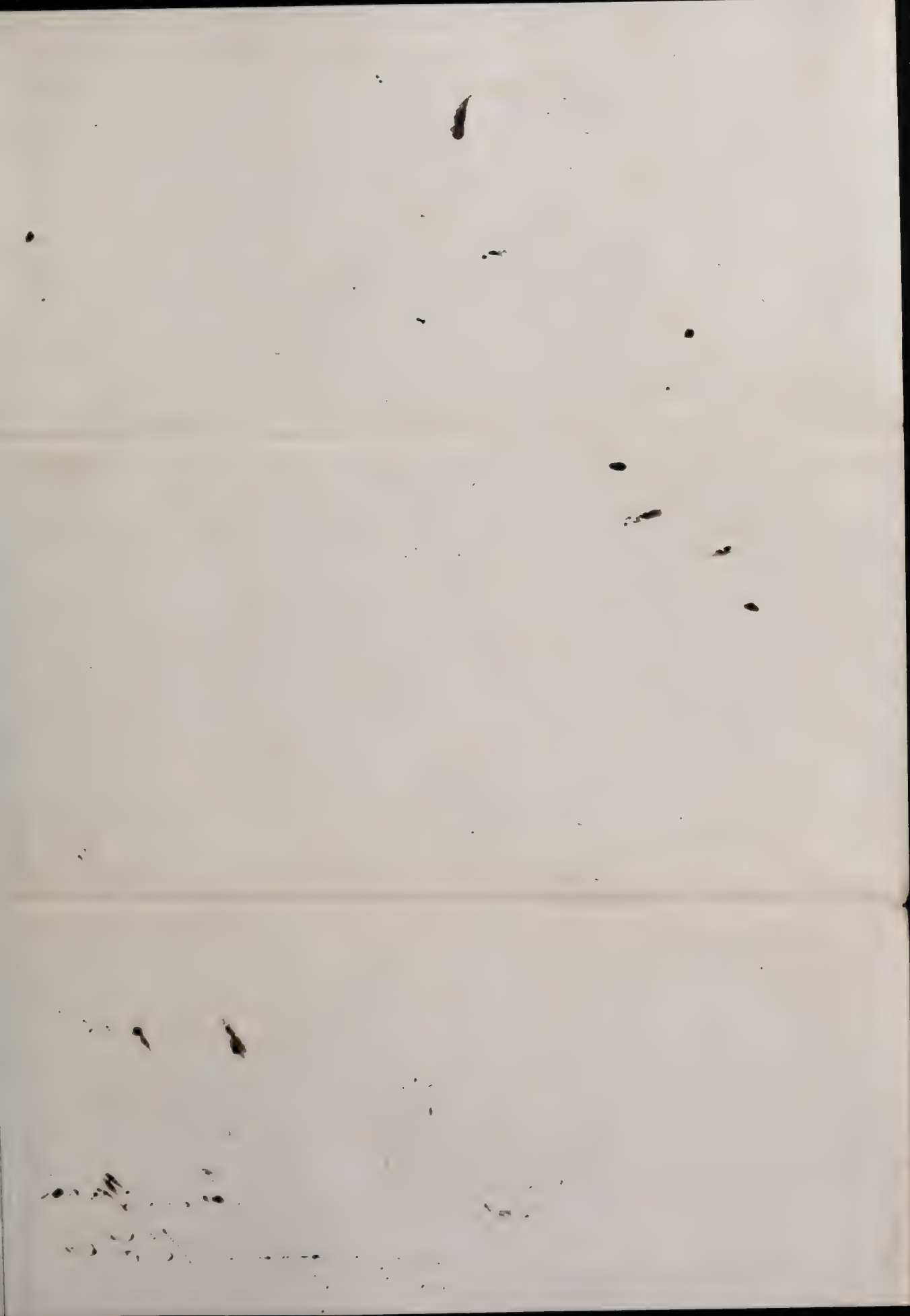
proper distance in a groove of ice already cut.
That of Mess. Howe & Co. is guided in the
same way; the only difference is that
Mr. Wyeth's guider is armed with points
so as to be a cutter at the same time, whereas
Mr. Howe's guider has no such points, &
does nothing but guide; - the principle of
the guiding & the manner in which it guides
the cutting I consider to be the same; -

Mr. Wyeth's machine is ~~for~~ so contri-
vised that it is adapted to have a line
or other curvilinear attached to the front
part of the machine by which it may
be drawn & the ice cut. In this respect
I see no difference between Mr. Wyeth's
machine & that of Howe & Co. - Upon
the ~~whole~~ first general appearance of
the two machines there is considerable
difference of form; but none in the
essential operation parts & modes of
action, that I am aware of.

Esper Pratt

Boston. Chap. St. & St. I soon to be sent
me. January tenth 1846

Wm G Loring, Commissioner
New England & S. Ct



Charles W. W. W. W.

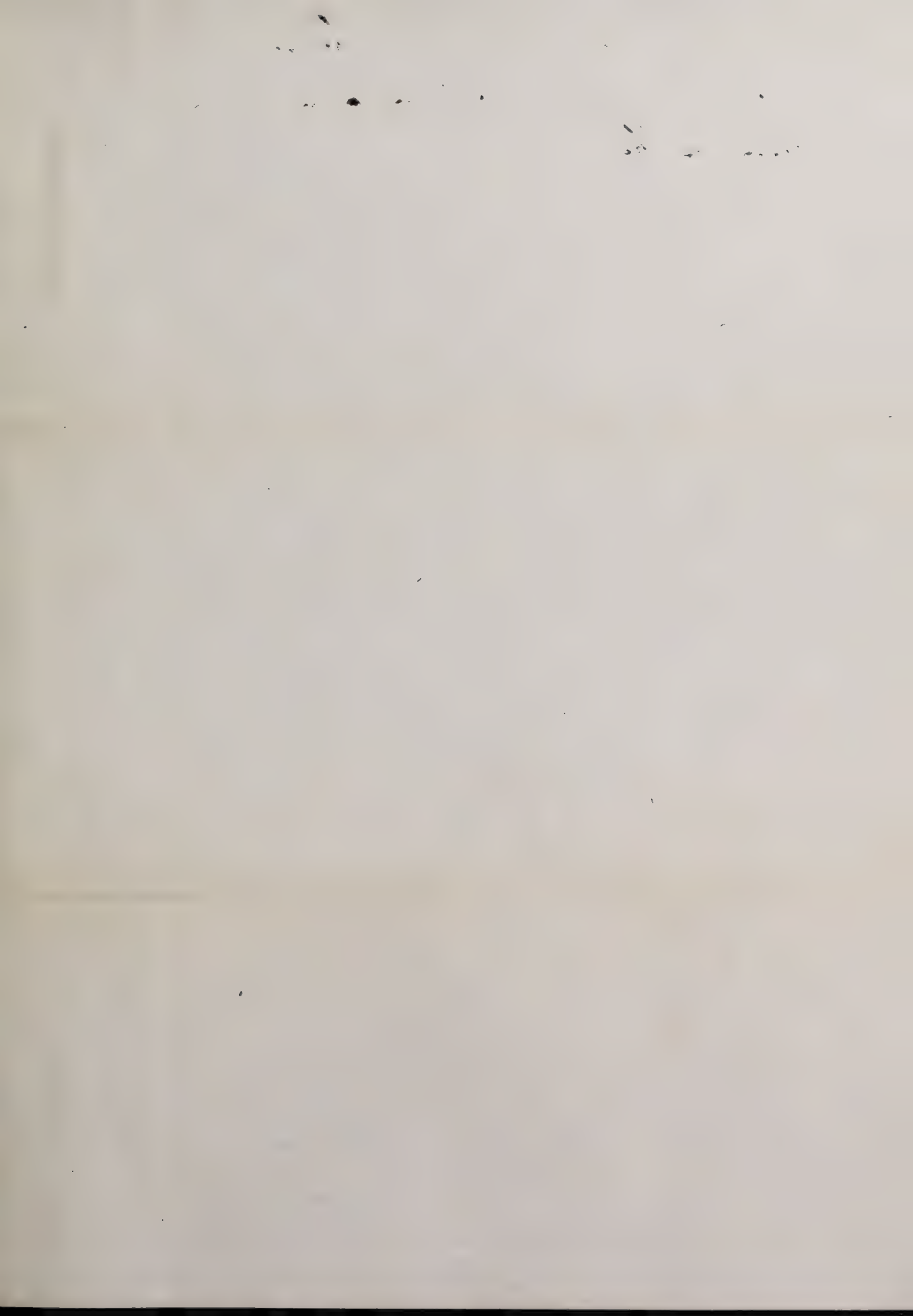
Boston Jan. 11th 1840

I James Brown of West Cambridge on
my oath do depose and say - that about
the year 1829 I crossed the Fresh Pond
with Nathl. Wyeth and then saw on
said Pond Mr. Samuel ^{of the firm of E. & S. Steadman} Steadman, Cutting
Ice with an Ice Cutter - and that I
then heard Nathl. Wyeth forbid the said
Saml. Steadman using the cutter and threaten
if he continued to do so to prosecute him
therefor and bid the said Steadman to take
notice that he had been warned to refrain
from using the Ice Cutter for that he the
said Wyeth claimed it as his invention -
Also that some time after the above E. & S.
Metcalf who was the brother in law of
~~one~~ of the Steadmans, and ~~the~~ it was generally
understood in Cambridge that the said
Metcalf was responsible for the acts of said
Steadman, said Metcalf told me that the
said Steadman ^{had cut} ~~was cutting~~ Ice at some
other Pond than Fresh Pond on a Sunday
and said Metcalf expressed himself sorry

that it had been done because he feared
that it would bring him into a Law Suit
~~and~~ expressed a hope that it being on
Sunday that it would ~~not~~^{escape} be noticed.
and expressed a doubt if it would be
actionable on that account

James Brown.

His Mil of Lepackus etc Jan^y 10 1840
Sworn to before me
Saml G Loring
Commissioner



John Brown, M.D.

I John Barker of West Cambridge on
Sat. dep. on Sunday; that I can by
have a carpenter; the first machine for
cutting ice that ever I saw or heard of was
a wooden one with some iron parts to it, of
Mr. Nathaniel J. Wyeth's, which I once
saw he had invented, & which I saw him
using in Fresh Pond; - the next one that
ever I saw or heard of ~~it~~ was an iron
one of ^{nearly} the same construction, belonging also
to Mr. Wyeth; this second machine is the same
~~one~~ ^{machine} which I saw in Court this morning ~~at~~
and which the Judge was examining; - this
machine I saw over ten years ago, and
understood that Mr. Wyeth had a Patent
for it; - about this time Mr. Ebenezer
Hedman of Cambridge came to me to
make an ice cutter, & we went & examined
& measured Mr. Wyeth's wooden one
for the purpose & I began the woodwork
but before it was finished Mr. Hedman
came & told me that Mr. Wyeth had in-

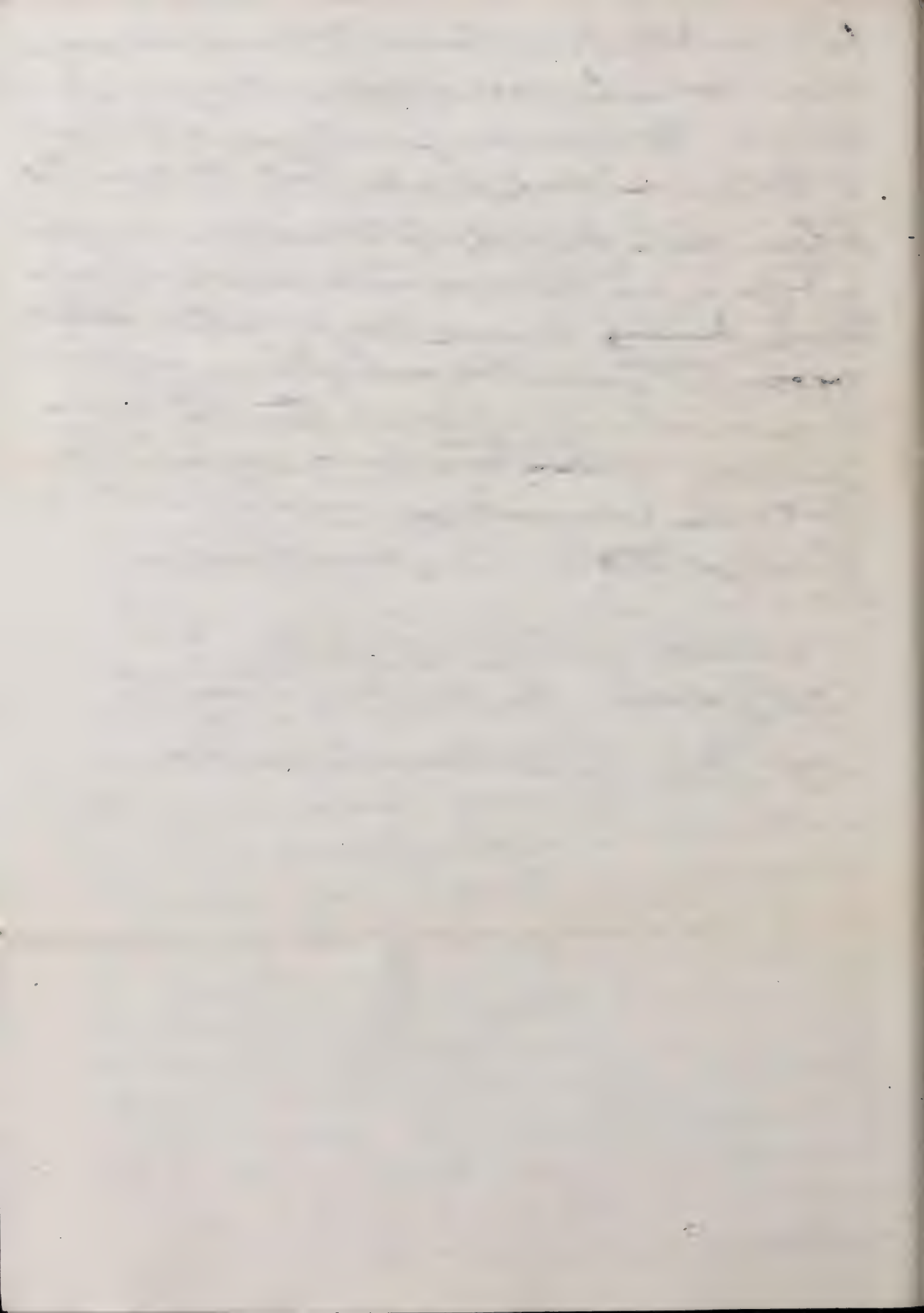
formed him that he had got over was
about getting a Patent for it, and
had given him notice to desist, &
in that season he told me to stop the
work. ^{and I did so. This was just before I saw Mr. Wyeth's machine.}
The first machine after this that I
saw in use for cutting ice, was ^{excepting Mr. Wyeth's} ~~only~~ ^{one}
I should say from three to five years ago,
I was ^{very} similar in construction to the one which
I saw in Court this morning which is
complained of as an infringement of
Mr. Wyeth's Patent. Since that I have
seen several ^{similar ones} in use, on Steadmen's work,
and the work of Leonard & Son & Co. - I know
B. Read is connected with Steadmen in
his work. ^{I believe under Read} - Mr. Wyeth's machine I have
seen in use either for him or Mr. Under
every winter, except the first, since it was
invented, and great quantities of ice have
been annually cut by it. Mr. Under
who has the use of Wyeth's machine cuts
more ice annually ^{than} ~~than~~ ^{than} all the other
ice cutters in Fresh Pond put together.
I have always understood that Mr. Wyeth
claimed and is entitled to an exclusive
right under his Patent; and I was present
at a conversation once, I should think about

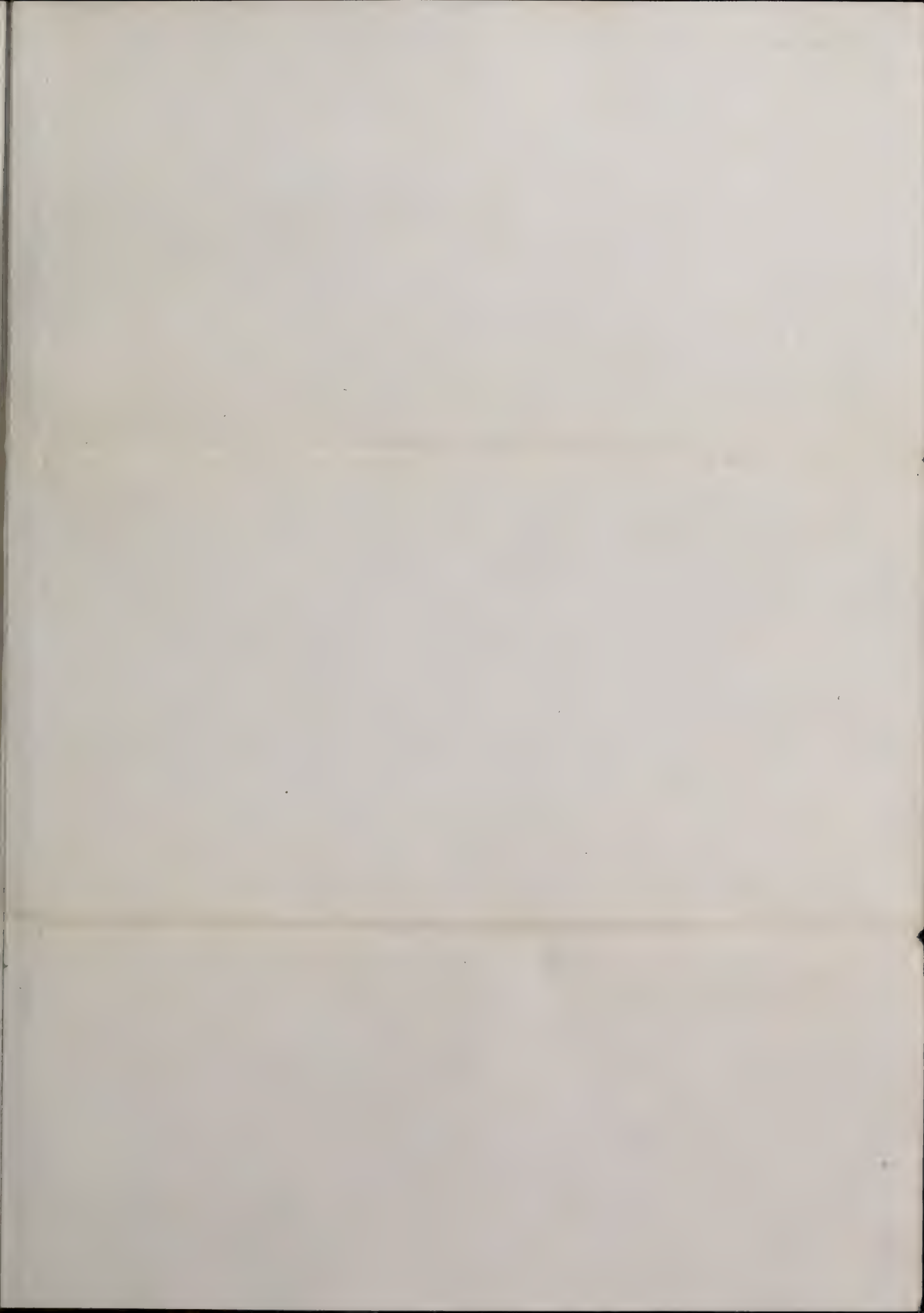
five
years ago, when a Mr. Brooks was talking of
purchasing from Mr. ~~Wyeth~~^{from} one of ^{these} machines
with a license to use it near Philadelphia;
Mr. Leonard Stone was present at the
conversation, and he said that Wyeth's ma-
chine was of no particular value, that he
could cut ice as well without it, and would
not use one if he had it. This was before
Stone & Co. had begun to run any machine
for cutting ice. But for several years past
they have used the machine which is complained
of as an infringement of Wyeth's Patent;
and my impression is that they first began
to use it while Mr. Wyeth was absent from
the country, but I am not able to fix a date.
I am personally well acquainted with the
business of ice cutting. It has been my
chief business for many years, in the
employment of Mr. Ryder. I have con-
stantly used Mr. Wyeth's machine and
consider it a very great & valuable
improvement above the old method of
cutting ice by hand. More work can be
done by it with ~~2~~ a horse and two men
than by twenty men in the old way; and
it cuts regular blocks of a uniform size
fit for close packing, which can not be done

by hand without great time & labor. The
machine used by Stone also. I do not
consider so good as Mr. Wyeth's for doing
work on a great scale; but it is also, as
well as Mr. Wyeth's, a great saving compared
with the old method of cutting by hand. I con-
sider the two machines, notwithstanding some
difference of form, to be identically the
same in principle, mode of action & effect.
The cutting part is the same, except a
very slight difference in the form of the
mouth through which the chips of ice are
thrown off, which is wholly immaterial,
except that ~~it does not work quite so well~~^{it doubt whether it}
in this form as in Wyeth's. The guiding, so
as to cut in parallel lines, is effected by
the same means, excepting that in the
machine used by Stone also. The distance of
the guide from the cutter can be somewhat
varied, so that the size of the blocks may
be varied within certain limits; which can
not be done with Wyeth's; but there is no
advantage in this ^{for} cutting ice for packing,
because it is important to have all the blocks
of the same size. The only other difference is that
the guide in Wyeth's machine is also a cutter;
whereas in the machine of Stone also, it is a guide
only. Both the machines are adapted to

be moved by draught in the same way; and
when the ice has been sufficiently grooved into
squares the manner of getting out the blocks
is the same, and is effected by the same tool.
I have seen several of the machines complain-
ed of as an infringement, in use on Fresh
Pond during several days within the last
week this present week. I have not seen
any machines at work there this season
previous to ^{Friday} ~~Monday~~ last; and I see
the Pond every day, my business being
chiefly there. John Barker

Dist. Court of Massachusetts - to the
City of Boston - Jan^y 10 1840 Term to
before me - David Loring Commissioner





Barber's Museum.

Cambridge Jan. 11th 1840

I, Abel Willard, Inn Holder in the town of Cambridge, do on my oath depose and say that at a time about five years since, viz after Seth Wyeth returned from his first expedition to the Columbia River and before he again left that place to return there, I have a conversation between said Wyeth and Jas. B. Kimball then of Cambridge concerning said Wyeth's Ice Cutter, in which said Wyeth claimed an exclusive right to the same, and alleged that all the machines that had been used were infringements of his patent and that he the said Wyeth, intended to maintain his right to the same - I also have uniformly understood and it was matter of notoriety that said Wyeth claimed the Ice Cutter as his exclusive property; ~~upon which~~ I have also ~~heard~~ heard said Wyeth declare that he would prosecute one Eben Stedman who was using a cutter that Mr Wyeth considered an infringement of his patent as I understood

A. Willard

His Vind of Massachusetts Jan^y 10 1840 Sworn
to & before me Paul G. Loring Commissioner



Chas. Williams, M.P.

I Abiel Wyeth of Cambridge in
the County of Middlesex. of lawful
age & ability, say on that oath that
for the last twelve years I have
been engaged in the ice business
either as cutter or contractor for
getting ice - that for a year
& past I have had the care
& superintendence of an ice
house in Augusta, Georgia - for
a company ~~then~~ not in any
manner connected with Mr. Hudson
or Mr. Wyeth here - not even so
far as to purchase ice of them.
I am a second cousin of N. J. Wyeth.
- have known his ice cutter
ever since he invented it -
~~discovered~~ always that he claimed
it as a ^{patent} - I had some idea
of using one of a similar

Abiel Wyeth
a witness.

constructor myself ~~in 1833~~
winter of 1833 & 1834 - Mr
N. J. Wyeth forbid me as
it would be a violation
of his patent - I took
pains to examine ~~in 1834~~
I took advice ~~to~~ ^{to} ~~change~~
up my plan - and hired
Mr N. J. Wyeth to cut ice
for me with his machine -
He got out for me with it
4500 tons which I shipped
to New Orleans - I have
talked with Daniel Bousard
about the cutter - about
the time Leonard Stone & Co
began the ice business - the
next winter after Mr. J. Wyeth
cut the ice for me as above.

Wyeth was then absent in
Oregon - I asked Burnard
if he was going to use the
cutter, being the one in common
use with a single runner -
He said he was - I said
are you not afraid that
Baker or Tuden will stop
you - He said I shall use
it till I am stopped - If
they stop me I must
give it up - It has always
been generally understood, ^{among the ice cutters in Washington} from
the time Wyeth first brought
out his machine that it
was a patent - ~~but~~ ^{they} have
always been desirous to use
it since it was known but
have feared to do so for fear
of being prosecuted ~~and~~ ^{sued}

Burnard ~~and~~ asked me at the
time you said inven-
tion. if I had made any
examination about Wgetts
patent. I told him I had and
had been advised not to violate
or infringe upon it.

Abiel Wgetts

District of Massachusetts

Jan^y 10 1840 - Sworn to before me
Saml^l G. Loring
Commissioner